

**DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
FEBRUARY 21, 2017
7:30 P.M.**

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk's Office and on the City's website www.onelakewood.com as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:

The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:

The Clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

- I. Pledge of Allegiance
- II. Moment of Silence
- III. Roll Call

Reading and disposal of the minutes of the Regular Meeting of Council held February 6, 2017.

Reports, legislation and communications from Members of Council, the Mayor and other City Officials.

******OLD BUSINESS******

1. Committee of the Whole Report regarding February 21, 2017 Committee meeting. Mr. O'Leary; Chair. (To Be provided)
2. Finance Committee Report regarding Resolutions 8921-17 & 8922-17, Ordinance 1-17; Ordinances 3-17 through 12-17. Mr. Bullock, Chair. (Report to be Provided)
3. **RESOLUTION NO. 8921-17** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, ratifying and authorizing the Mayor of the City of Lakewood, Ohio, to enter into an Agreement with the Lakewood Paramedic Association for a three-year period commencing January 1, 2017 an ending December 31, 2019. (referred TO Finance Committee 2/6/17) (Pg. 9)
4. **RESOLUTION NO. 8922-17** - A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, ratifying and authorizing the Mayor of the City of Lakewood, Ohio, to enter into an Agreement with The Lakewood Association of Firefighters, IAFF Local 382, for a three-year period commencing January 1, 2017 and ending December 31, 2019. (REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 32)
5. **ORDINANCE NO. 1-17** – AN ORDINANCE to take effect on January 1, 2017, provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to provide for creating positions and rates of pay for full-time and certain part-time annual salaried employees and hourly rate employees not covered by a collective bargaining agreement in the several departments, division and offices of the City of Lakewood, including the Chief of Fire, Chief of Police and Civil Service Commissioners. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg.55)
6. **ORDINANCE 3-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$10,584,000 IN ANTICIPATION OF THE ISSUANCE

OF BONDS TO PAY COSTS OF (I) IMPROVING MADISON AVENUE BY PROVIDING NEW TRAFFIC SIGNALIZATION; (II) IMPROVING AND RENOVATING THE REFUSE FACILITY; (III) REPLACING THE ROOF ON CITY HALL; (IV) RESURFACING ATKINS AVENUE, ARLINGTON ROAD, ARTHUR AVENUE, BLOSSOM PARK AVENUE, BROCKLEY AVENUE, CLIFTON BOULEVARD, CRANFORD STREET, COVE AVENUE, DONALD STREET, HIRD AVENUE, LAKELAND ROAD, LAKELAND AVENUE, LARCHMONT AVENUE, LAUDERDALE AVENUE, LEWIS DRIVE, MADISON AVENUE, MCKINLEY AVENUE, MARLOWE AVENUE, MORRISON AVENUE, NICHOLSON STREET, NORTH MARGINAL STREET, NORTHLAND AVENUE, OLIVE AVENUE, OVERLOOK ROAD, SOUTH MARGINAL STREET, ST. CHARLES AVENUE, SUMMIT AVENUE, WASCANA AVENUE, WATERBURY ROAD, WOODWARD AVENUE, WOODWARD STREET, WYANDOTTE AVENUE, AND OTHER STREETS LOCATED WITHIN THE CITY; (V) IMPROVING DETROIT AVENUE, FRANKLIN STREET, HILLIARD STREET AND MADISON AVENUE BY PROVIDING NEW AND UPGRADED TRAFFIC SIGNALIZATION AND PEDESTRIAN SIGNALS; (VI) IMPROVING THE MUNICIPAL GARAGE VENTILATION SYSTEM; (VII) IMPROVING PARKS WITHIN THE CITY, INCLUDING LAKEWOOD PARK, WAGAR PARK AND THE LAKEWOOD PARK SKATE HOUSE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; (VIII) RECONSTRUCTING MADISON AVENUE; (IX) CONSTRUCTING A SHEET PILE BULKHEAD, DOCKS AND A PARKING AREA, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; (X) IMPROVING SIDEWALKS WITHIN THE CITY, (XI) REPLACING A SALT STORAGE FACILITY AND (XII) IMPROVING THE SEWER SYSTEM IN THE CITY BY CONSTRUCTING THE WEST END SEWER SEPARATION PROJECT AND A NEW SANITARY SEWER AND IMPROVEMENTS AND RENOVATIONS TO THE EXISTING SANITARY SEWERS AND STORM WATER SEWERS ALONG EDGEWATER DRIVE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE; APPROVING RELATED MATTERS; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED

MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (PG. 61)

7. **ORDINANCE NO. 4-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$1,250,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, ENGINEERING, PERMITTING AND CONSTRUCTING IMPROVEMENTS TO THE CITY'S EXISTING DIGESTER MIXERS, HEAT EXCHANGERS AND TANKS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 71)
8. **ORDINANCE 5-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$2,270,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, PERMITTING, ENGINEERING AND CONSTRUCTING SEWER IMPROVEMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY. ((1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) Pg. 80)
9. **ORDINANCE NO. 6-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$745,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, ENGINEERING AND CONSTRUCTING DRAINAGE IMPROVEMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING

RELATED MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg.89)

10. **ORDINANCE NO. 7-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$2,745,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, ENGINEERING AND CONSTRUCTING WATER IMPROVEMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 98)

11. **ORDINANCE NO. 8-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$1,800,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF IMPROVING LAKE AVENUE AND MAPLE CLIFF DRIVE AND OTHER STREETS LOCATED WITHIN THE CITY, BETWEEN CERTAIN TERMINI, BY RESURFACING AND REPLACING CONCRETE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 107)

12. **ORDINANCE NO. 9-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$800,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF IMPROVING PARKS WITHIN THE CITY, INCLUDING KIDS COVE PLAYGROUND AND KAUFMANN PARK, TOGETHER WITH ALL NECESSARY APPURTENANCE THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN

EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 116)

13. **ORDINANCE NO. 10-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$650,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF IMPROVING SIDEWALKS WITHIN THE CITY; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 125).

14. **ORDINANCE NO. 11-17-** AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$300,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF REPLACING OR IMPROVING THE ROOF OF THE PUBLIC WORKS GARAGE AND OTHER PUBLIC BUILDINGS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 134)

15. **ORDINANCE NO. 12-17** - AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$1,100,000 TO PAY COSTS OF DESIGNING, ENGINEERING, AND CONSTRUCTING IMPROVEMENTS AND INSTALLING A RETAINING WALL ON THE NORTHERLY PROPERTY LINE OF THE WINTON CLIFF TO STABILIZE THE EXPOSED SHALE BLUFF; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY. (1ST READING & REFERRED TO FINANCE COMMITTEE 2/6/17) (Pg. 143)

16.Public Works Committee Report regarding Resolution 8920-17. Mr. Nowlin; Chair. (Pg. 152)

17.**RESOLUTION NO. 8920-17** - A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, approving the use of submerged lands for property located at and abutting the Northern Terminus of Webb Road, Lakewood, Ohio (a legal description of which is attached hereto as Exhibit "A", in order to permit the owners the opportunity to undertake lakeshore protection measures. (read & REFERRED TO PUBLIC WORKS COMMITTEE 2/6/17) (Pg. 153)

18.Public Safety Committee Report regarding February 13, 2017 Public Safety Committee Meeting. Mr. O'Malley; Chair (Pg. 158)

19.**RESOLUTION NO. 8916-17** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force at the earliest period allowed by law, to extend a moratorium on the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable the cultivation, processing, or retail sale of medical marijuana for a period not to exceed six months from the effective date of this resolution, in order to allow Council and the Lakewood Planning Commission to review applicable Ohio statutes, criminal codes and the Lakewood Zoning Code relative to such use. (Pg. 160)

20.**ORDINANCE NO. 13-17** – AN ORDINANCE AMENDING Section 109.04, Minutes Open to Public, of the Codified Ordinances of the City of Lakewood. (READ & REFERRED TO THE RULES & ORDINANCES COMMITTEE 2/6/17) (Pg. 163)

******NEW BUSINESS******

21.Communication from Councilmember Marx regarding Lakewood Animal Safety and Welfare Advisory Board Educational Materials. (Pg. 165)

22.Communication from Councilmember Anderson regarding Proposed Ordinance regarding Owner Occupied Two-Family Homes. (Pg.170)

23. **ORDINANCE NO. 14-17** – AN ORDINANCE amending Section 1306.43, Housing and Vacant Property License, and Section 1306.44, License Application Form and Fee, of the Codified Ordinances of the City of Lakewood. (Pg. 172)
24. Communication from Mayor Summers regarding Mayoral appointment to the Lakewood Citizens Advisory commission. (Pg. 178)
25. Communication from Law Director Butler regarding 2016 fourth quarter codification ordinances. (Pg. 179)
26. **ORDINANCE NO. 15-17** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter. (Pg. 180)
27. Communication from Finance Director Pae regarding 2017 1st Quarter Transfers and Advances. (Pg. 182)
28. **ORDINANCE NO. 16-17** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force at the earliest period allowed by law, authorizing the transfer and advance of certain funds. (Pg. 183)
29. Communication from Planning & Development Director Sylvester regarding Planned Development Zoning Chapter 1156. (Pg. 185)
30. **ORDINANCE NO. 17-17** – AN ORDINANCE to expand Chapter 1159, Planned Development, of the Zoning Code to permit planned developments in any zoning district and allowed any use so long as that use is sensitive to the former permitted use and adjacent. (Pg. 186)

RESOLUTION NO. 8921-17

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, ratifying and authorizing the Mayor of the City of Lakewood, Ohio, to enter into an Agreement with the Lakewood Paramedic Association for a three-year period commencing January 1, 2017 and ending December 31, 2019.

WHEREAS, the administration has conducted extensive negotiations with the Lakewood Paramedic Association (the "Union") as the bargaining representative for certain employees of the City; and

WHEREAS, such negotiations have provided a tentative agreement between the parties for the years 2017-2019; and

WHEREAS, Council and the administration have reviewed such proposal and do desire to ratify and adopt such agreement; and

WHEREAS, this Council by a vote of at least five members thereof determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it provides for the usual daily operation of municipal departments in that the current agreement expired on December 31, 2016; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Council hereby ratifies and authorizes the Mayor to enter into an Agreement for a three-year period with the Union, on behalf of certain employees of the City, commencing January 1, 2017 and ending December 31, 2019; the form of the agreement is attached as Exhibit A and shall be on file in the office of the Director of Law.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the

Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

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AGREEMENT

BETWEEN

THE CITY OF LAKEWOOD

AND

LAKEWOOD PARAMEDIC ASSOCIATION

JANUARY 1, 2017 - DECEMBER 31, 2019

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AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Lakewood, Ohio, hereinafter referred to as the "City," and the Lakewood Paramedic Association (LPA), hereinafter referred to as the "Association." The term "employee" or "employees" where used in this Agreement, refers to all classified sworn full-time Paramedics employed by the Division of Fire, excluding all other employees of the Division of Fire.

It is the purpose of this Agreement to achieve and maintain harmonious relations between the City and the Association, to provide a fair and responsible method of enabling employees covered by this Agreement to participate, through Union representation, in the establishment of terms and conditions of their employment; and to establish a peaceful procedure for the adjustment and resolution of differences which may arise under this Agreement between the parties.

The male pronoun or adjective where used herein refers to the female also, unless otherwise indicated.

ARTICLE 1

RECOGNITION

1.01 The City hereby recognizes the Lakewood Paramedic Association as the sole and exclusive agent and representative of all employees, as identified in State Employment Relations Board (SERB), Case No. 00-REP-03-0063, excluding all other employees of the Division of Fire, for the purpose of collective bargaining and representation with respect to wages, hours, and all other terms and conditions of employment pursuant to Section 4117, et seq., Ohio Revised Code.

ARTICLE 2

CHECKOFF

2.01 The City shall deduct, on a monthly basis, dues from the pay of employees in the LPA bargaining unit upon receipt from the LPA of individually, written authorization cards, voluntarily executed by an employee for that purpose and bearing the employee's signature, provided that any employee shall have the right to revoke such authorization, pursuant to the provisions of Section 4117 of the Ohio Revised Code.

2.02 The City shall transmit to the LPA all monies withheld during each month, along with a list of all employees for whom deductions have been made and, upon receipt, the LPA shall assume full responsibility for the disposition of all funds deducted.

2.03 The parties agree that the City assumes no obligation, financial or otherwise, arising out of the provisions of this Article regarding the deduction of Union dues. The Association hereby agrees that it will indemnify and hold the City harmless from any claims, actions or proceedings by any employee arising from the deductions made by the City, pursuant to this Article. Once the funds are remitted to the Association- their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union.

2.04 The City shall not be obligated to make dues deductions from any employee who, during any dues months involved, shall have failed to receive sufficient wages to make all legally required deductions in addition to the deduction of Union dues.

2.05 The parties agree that neither the employees nor the Association shall have a claim against the City for errors in the processing of deductions, unless a claim of error is made to the City, in writing, within sixty (60) days after the date such an error is claimed to have occurred. If it is found an error was made, it will be corrected at the next pay period that the Association dues deduction would normally be made by deducting the proper amount.

ARTICLE 3

WAGES AND HOURS

3.01

Effective January 1, 2017 LPA employees will receive a 3% increase in base wages.

Effective January 1, 2018 LPA employees will receive a two percent (2%) increase in base wages.

Effective January 1, 2019 LPA employees will receive a two percent (2%) increase in base wages.

3.02 Differential

Effective January 2, 2019 all LPA members with a city hire date in 1999 will receive a 3% increase over their current rate due to reaching their 20th year of service with the city in OPERS. 3.03 Employees who are assigned to perform the duties of Paramedic Supervisor shall receive the supervisor rate of pay for that assignment for all time worked in that classification. Assignment for Acting Paramedic Supervisor shall be made by the Fire Chief, said selection being one (1) employee from among the three (3) senior employees by shift. An employee working a trade for a Paramedic Supervisor shall not be considered for an acting pay assignment.

3.04 Rates of pay for each year of this Agreement are identified in Appendix A of this Agreement and are reflective of the increases identified in Section 3.01 of this Article.

ARTICLE 4

COMMUNITY SERVICE RECOGNITION

(Reserved.)

ARTICLE 5

LONGEVITY ALLOWANCE

5.01 Effective January 1, 2006, all regular, full-time employees of the Division of Fire shall receive a semi-annual longevity allowance, based upon the number of continuous full years of service with the Division of Fire, including interim military service, as determined on the dates of June 15th and December 15th in accordance with the following semi-annual schedule: Such payment to be made in the employee's regular paycheck during June and December.

5 Years \$250.00	13 Years \$650.00	21 Years \$1,050.00
6 Years \$300.00	14 Years \$700.00	22 Years \$1,100.00
7 Years \$350.00	15 Years \$750.00	23 Years \$1,150.00
8 Years \$400.00	16 Years \$800.00	24 Years \$1,200.00
9 Years \$450.00	17 Years \$850.00	25+ Years \$1,250.00
10 Years \$500.00	18 Years \$900.00	
11 Years \$550.00	19 Years \$950.00	
12 Years \$600.00	20 Years \$1,000.00	

ARTICLE 6

UNIFORM MAINTENANCE

6.01 The City will supply and replace for every employee of the Division of Fire a helmet, EMS turnout coat, goggles, EMS turnout pants and other personal equipment that may be required. All of the above supplied equipment shall be of an approved design and construction, and every employee shall be expected to maintain and handle this equipment with reasonable care.

6.02 The City will pay to every employee a uniform maintenance of \$1,000.00 on or before March 31st of each year in the employee's regular paycheck. Uniform payments shall be prorated for new hires and terminated/separated employees. At its discretion, the City may implement a policy wherein it provides for the replacement of uniforms as an alternative to the annual maintenance allowance.

6.03 Employees whose uniform items are damaged or stolen in the line of duty shall report such damage or theft to their immediate supervisor. If it is determined by the Fire Chief that the items cannot be reasonably repaired, the replacement or repair of the items will be at no cost to the employee.

ARTICLE 7

CALLBACKS

7.01 Any employee who is recalled to work for an emergency after leaving their regular shift shall be paid for at least three (3) hours or all time worked, whichever is greater. An emergency call back is defined as an immediate need for personnel to be assigned during an incident. All emergency recalls shall be mandatory. Where particular skills, such as fire prevention, are required, only such personnel are to be called back. Call back credit for emergencies will begin at the time the telephone call is received.

7.02 Scheduled overtime to attend meetings, training classes and other non-emergency functions, by order of the Fire Chief or a designee, or any holdovers from the previously scheduled shift shall be paid at the non-scheduled overtime rate, as identified in Appendix A of this Agreement, for a minimum of one (1) hour or the actual time worked, whichever is greater, and shall be mandatory unless excused for just cause.

9.02 If the department mandates the attendance of an employee to a particular course or seminar, the employee shall be paid at the non-scheduled overtime rate, as identified in Appendix A of this Agreement, for class time and travel time on non-scheduled workdays, plus all expenses (tuition, lodging, meals, mileage, and other related expenses).

9.03 Anyone attending a local seminar will be entitled to travel time from the City of Lakewood to said location. Local is defined as within a fifty (50) mile radius of the City of Lakewood, which includes the City of Akron.

9.04 For purposes of this Article, a week commences on Sunday and ends on Saturday. Employees who are attending a five (5) day seminar, Monday through Friday, will be permitted the calendar day before and the calendar day after as off time. Employees who are attending any other approved, non-local educational course shall receive eight (8) hours off plus travel time the day before. Upon completion of the training, the employee will report to their next regularly scheduled tour of duty.

ARTICLE 10

SENIORITY

10.01 A current seniority list shall be maintained at all times and shall govern the following:

A. Vacation and holiday selections among the unpromoted ranks will be selected on the basis of seniority of the original appointment date.

B. Seniority shall be broken when an employee quits or resigns, is discharged, is laid off for more than two (2) years, fails to report for work when recalled from layoff within seven (7) days from the date on which the employee receives notice of recall by certified mail. (It is the member's obligation to notify the City of any change of address. The City shall forward notice required by this Section to the last address supplied by the employee.)

10.02 In the event of a reduction in force, the employees with the greatest seniority shall be retained.

10.03 For purposes of this Article, Appendix B sets forth the order of seniority for bargaining unit employees within their respective classifications.

ARTICLE 11

POSTING OF NOTICES

11.01 Within ten (10) days of an opening at Station 2 or Station 3, or an opening at Station 1 for the promoted ranks, Truck Company 1, and Car 2 driver, which becomes available as a result of resignation, retirement, transfer or detailed reassignment as Assistant Mechanic or Fire Inspector, the City shall post a notice of said vacancy at each Station for ten (10) consecutive days. Stations shall be staffed as follows:

Station 1	Station 2	Station 3
12 employees total	8 employees total	8 employees total

11.02 Members who wish to be considered for the assignment shall file a written request with the Assistant Chief no later than the end of the posting period. All applications timely filed will be reviewed by the Chief and considered for filling the assignment. Department needs, in terms of balancing the experi-

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7.03 All official court overtime duty ordered by the Director of Public Safety, Director of Law or prosecutor of the City, the Judge or Clerk of the Lakewood Municipal Court or Common Pleas Court, or in response to a subpoena or similar writ commanding appearance in a criminal or quasi-criminal case arising out of an incident while on duty as an employee of the Division of Fire shall be compensated at the non-scheduled overtime rate, as identified in Appendix A of this Agreement, for all time worked in excess of their scheduled workweek.

ARTICLE 8

WORKWEEK/OVERTIME

8.01 The workweek shall be defined as a seven (7) day period and shall begin at 8:30 a.m. on Sunday of each calendar week and end at 8:30 a.m. on the following Sunday. For purposes of this Agreement, the term "four" shall be defined as a twenty four (24) hour scheduled period of work. The scheduled workweek shall consist of an average of 50.4 hours each week over the course of the calendar year.

8.02 For purposes of this Article, "regular work hours" shall be defined as the first forty (40) hours of work in a workweek and "scheduled overtime hours" shall be defined as the additional 10.4 hours per week of scheduled work and constituting the remainder of the 50.4 hour average workweek.

8.03 Each employee shall be paid an average weekly salary that will consist of payment for forty (40) regular hours at the regular rate of pay and 10.4 scheduled overtime hours at the rate of one and one-half (1-1/2) times the regular hourly rate of pay. The applicable hourly rates of pay are identified in Appendix A of this Agreement.

8.04 Any non-scheduled hours actually worked in a workweek that are in excess of the scheduled 50.4 hours per week shall be paid at the non-scheduled overtime rate as identified in Appendix A of this Agreement.

8.05 In lieu of paid overtime employees may choose to accumulate unscheduled overtime in the form of Comp time. Comp time will be banked on an hour-for-hour and 1/2 basis, in accordance with the Fair Labor Standards Act.

If any employee has more than one hundred (100) hours of compensatory time in his or her comp bank as of the last pay of the year all hours over 100 will be paid in their final paycheck of the year at the rate of pay it was earned.

ARTICLE 9

EDUCATIONAL CREDIT

9.01 The City shall inform employees of any employment related courses or seminars being conducted, provided that the City shall continue to have the sole discretion on approving employee requests to attend these courses or seminars. The City shall continue to pay the total cost of books and tuition for any employee achieving a grade "C" or better in any accredited and approved employment related courses. If the employee leaves the department within four (4) years of such reimbursement, the employee shall have the full amount of tuition reimbursement deducted from their final payout or make full reimbursement to the City.

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ence, abilities and skill of the members within each firefighting company will govern the selection for the assignment. If more than one (1) application fits the department's needs for that assignment, then seniority will determine the selection. The selection will be made within five (5) business days following the posting and the vacancy filled. The posting of notices will end when no member requests to fill said vacancy. In the event a resultant vacancy exists in a company assignment other than Truck Company 1 after the posting period, the City may, at its option, fill said vacancy by reassignment of a Truck Company 1 member or unassigned member without requiring further posting.

11.03 Members who request and are approved for transfer to a different shift must resign vacation and holiday time from the remaining time available on the new shift, in accordance with department rules and regulations. Members who are transferred by department mandate, without their request, to a different shift may retain vacation and holiday time previously selected or may resign from the remaining time available on the new shift, in accordance with department rules and regulations.

ARTICLE 12

LEAVES OF ABSENCE

12.01 Funeral Leave

A. After a death occurs within the employee's family, the employee shall be granted funeral leave, without loss of pay, benefits, holidays or vacation time, in accordance with the following schedule: (Calendar days off taken must be consecutive and include the day of the funeral.)

1. Spouse, son, daughter, stepchildren, mother, father, stepparents, mother-in-law, father-in-law - 10 days
2. Brother, sister, son-in-law, daughter-in-law, grandparents, grandparents-in-law, grandson/daughter, brother or sister-in-law - 3 days

B. Funeral leave may be extended at the discretion of the Chief of Fire, based on individual circumstances. Such extra time will be utilized out of the employee's paid leave accounts, including holiday, compensatory time, sick leave and vacation.

12.02 Emergency Leave

In the case of sudden or serious illness or emergency in the employee's immediate family which renders the employee physically unable to report to work, after exhausting every effort to do so due to extraordinary circumstances, and upon securing approval from the Chief of Fire or the designated representative, the employee may be granted sufficient time off out of his paid time accounts including holiday, vacation, compensatory time and sick time, to aid the family and to complete any urgent business concerning the emergency. Upon completion of said emergency, the employee shall immediately return to duty. Final authorization for the absence, and time granted from those accounts, is conditioned upon the employee providing the City with acceptable verification of such absence. In the event an employee is denied emergency leave, said employee shall have the right to appeal that decision directly to the Chief of Fire.

12.03 Jury Duty and Court Leave

A. An employee called for jury duty or subpoenaed as a witness shall be granted a leave of absence for the period of jury or witness service and will be compensated pursuant to Article 7, Section 7.03, for the work absences necessarily caused by the jury duty or witness duty. To be eligible for such pay, an employee must present verification of the call in injury duty or witness duty.

B. An employee called for jury duty shall be granted a leave of absence for the period of jury service beginning twelve (12) hours prior to the starting time of the notice to report. Upon completion of the jury duty, the employee will report to their next regularly scheduled tour of duty.

12.04 Military Leave

An employee shall be granted a leave of absence for military duty in accordance with state and federal law, and municipal ordinances.

12.05 Leaves of Absence Without Pay

Leaves of absence without pay or other fringe benefits may be granted in accordance with Civil Service Rules and Regulations.

ARTICLE 13

SICK TIME AND PREGNANCY LEAVE POLICY

13.01 Employees of the Division of Fire who are sick or injured and unable to report for duty shall report said sickness or injury to the Assistant Chief at least one (1) hour prior to the start of the employee's scheduled shift. The Assistant Chief shall in turn notify the Chief of Fire.

13.02 For any absence which qualifies under the Family and Medical Leave Act ("FMLA"), paramedics must use sick time and other paid time off during FMLA leave, except for an injury which qualifies under § 13.08. The employee must apply for FMLA for any FMLA qualifying event, including injury leaves.

13.03 When an employee reports sick due to a non-work related illness, upon return to work, the employee must report to the Assistant Chief and complete the Certificate of Illness or Injury form that is to be retained at the Division of Fire. If the employee is injured or sick from work more than seven (7) consecutive calendar days, has undergone an operation or told to have one, suffered an injury (including non-work related) which affects or could affect the employee's mobility, physical agility or ability to perform their job duties in any way, or contracted any contagious illness which could be transmitted in close living quarters or in the course of their job duties, the employee must complete a Attending Physician's Statement or attach a statement from their physician to the certificate giving a diagnosis/prognosis, indicating that the employee is able to return to regular or temporary light duties and turn it in to Human Resources prior to returning to duty.

Unless specifically stated otherwise by the proper medical authority, all days off stipulated by the attending physician as a result of injury or illness are construed to be consecutive calendar days. These documents shall be submitted to the Division of Human Resources, prior to the day the employee returns to work. Whenever an employee is absent due to illness or injury, that employee will secure permission from the Chief of the Division of Fire before leaving the area, except to see a physician.

work shifts, subject to the approval of the Fire Chief. The employee will continue to accumulate time during this period.

B. During any such period, the employee shall remain available for and report as directed for any light duty assignment for which the treating physician and the Fire Chief determine to be appropriate for the employee's physical restrictions and the operational requirements of the Division of Fire.

C. The employee may request additional periods not to exceed ten (10) work shifts provided said employee continues to be restricted from regular duty as certified by the treating physician. Additional periods will be subject to the approval of the Fire Chief.

D. In the event that the Bureau of Workers' Compensation (BWC) should disallow an employee's claim for benefits, the employee shall be charged with all time lost from work (not including time spent on a light duty assignment) against the employee's accumulated sick time, provided the employee has sick time available. Should the employee not have a sufficient amount of paid sick time available, the employee may charge accumulated vacation and/or holiday time. Should the employee not have sufficient paid time available to cover either all or part of the time off, up to and including the date the claim is disallowed, then any wages paid to the employee shall be repaid by the employee to the City through payroll deduction.

13.09 In the event an employee becomes or continues to be incapacitated from work by reason of illness or injury after sick time and any other paid time is used up, they may apply for donations of time according to the Sick Time Donation policy.

13.10 Retirement and Death Conversion

A. When an employee retires, resigns or dies from the Division of Fire, either through service or disability, and shall have completed ten (10) years of service in the Division, the employee, or the estate, shall be compensated in cash, based upon the hourly rate for conversion of time to cash at the time of retirement, resignation or death, for one-quarter (1/4) of their unused sick time which they shall have accumulated. However, in no event, shall the accumulated sick time for conversion purposes exceed two thousand four hundred (2400) hours.

13.11 Conversion of Sick Time

A. All employees who have accumulated more than one thousand five hundred (1500) hours of sick time may convert, on a three (3) to one (1) basis, all hours accumulated in the calendar year over one thousand five hundred (1500) into a lump sum cash payment in January of each calendar year, not to exceed a maximum of fifty (50) hours in any calendar year. Any conversion made in accordance with this Article will be made at the hourly rate for conversion of leave to cash.

ARTICLE 14

PERFECT ATTENDANCE

14.01 Except for employees hired on or after January 1, 2010, all full-time employees who complete one-quarter (1/4) of a year with perfect attendance from January 1st to March 31st; April 1st to June 30th; July 1st to September 30th; October 1st to December 31st; take no sick leave time for any reason whatsoever, excluding time off as a direct result of an on-the-job injury, lasting no more than four (4) 24-hour shifts

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13.04 The City has a right to review the employee's physical and mental status at any time during an employee's absence to determine whether the employee is actually sick or injured, or the employee has the ability to return to work. The City may have the employee examined by a physician, paid by the City, to determine whether the employee is actually sick or injured. If authorized by proper medical authority, the City may call an employee who is injured on the job to perform temporary light duties, providing that work is available and that the employee has the skill and ability to perform the work. Employees who are absent due to a non-duty related sickness or injury may request a temporary light duty assignment. Providing that a temporary light duty assignment is available, as determined by the Chief, and providing the employee possesses the skill, ability and physical stamina to perform the duties required and provides written authorization to perform specific duties from his or her attending physician, the employee may be given consideration for such an assignment. Any employee on light duty who is working forty (40) hours per week will have any holiday time taken off equal to one-half (1/2) of an accrued twenty four (24) hour holiday. In the event an employee is unable to return to assume full duties as a Paramedic for a period in excess of six (6) months, the employee shall be required to submit to Human Resources a diagnosis and prognosis of the employee's condition, stating whether the employee will or will not be able to resume the full duties of Paramedic.

13.05 Should it be determined by proper medical authority that an employee will not be able to return to regular full duties as a Paramedic, the City has the right to require that employee to apply for disability retirement. In the event of a difference of opinion as to the employee's mental or physical status, regarding their ability to perform their regular duties, between the employee's physician and the City's physician, the issue shall be submitted to a third physician specializing in occupational medicine, whose decision shall be final and binding. Fees and expenses of the physician shall be borne equally by the parties. For purposes of this section, an injury is defined as a traumatic damage to the body, of external origin, unexpected and undesignated by the injured person. The aforementioned language is designed to comply with the Americans with Disabilities Act.

13.06 An employee who reports absent from assigned duties due to sickness or injury shall not be permitted to engage in any other outside employment during the period of their absence, nor may the employee return to such outside employment until returning to assigned duties or receiving permission from the Assistant Chief. The Chief of the Division of Fire shall take such steps as necessary to prevent the improper taking of sick leave.

13.07 Sick Time

A. One (1) sick leave day, either earned, taken, used or converted, shall be considered to be a twenty four (24) hour period, unless the employee is scheduled to work for a period of less than twenty four (24) hours. In such cases, the sick time shall be equal to the scheduled hours and no employees shall be charged for sick time on days which the employee is not scheduled for duty.

B. All employees shall earn sick time at the rate of 4.6 hours for every eighty (80) hours actually worked, and may accumulate such sick leave to two thousand four hundred (2400) hours.

13.08 Duty Exemption

A. An employee who suffers a service connected injury or illness incurred during the course of or arising out of employment with the City shall receive their regular earnings for a period not to exceed ten (10)

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(consecutive or intermittent), for each separate and distinct injury, shall be entitled to receive a direct cash payment for fifteen (15) hours in the following calendar quarter, according to their hourly rate for conversion of leave to cash not to include any supplemental pay provided by this Agreement.

14.02 All full-time employees covered under this contract who complete one (1) year (January 1st through December 31st) with one (1) or less days absent for any reason whatsoever (excluding time off as a direct result of an on-the-job injury lasting no more than four (4) 24-hour shifts (consecutive or intermittent) for each separate and distinct injury, shall be entitled to one (1) tour off during the following year. Employees retiring on December 31st who would be entitled to one (1) holiday off the next following year, shall be permitted to convert said holiday to cash at their current hourly rate for conversion of leave to cash in effect on December 31st.

ARTICLE 15

VACATIONS

15.01 Personnel

A. Employees who have completed one (1) or more years of service as of June 1st shall earn vacation time according to the following schedule:

<u>Years of Service</u>	<u>Vacation Tours</u>	<u>Must Take Annual</u>
1 through 6	6	2
7 through 12	9	3
13 through 18	12	4
19+	15	5

B. A vacation tour is defined as one (1) twenty four (24) hour scheduled tour of duty. Members are considered to be on vacation forty eight (48) hours prior to and after scheduled vacation and holiday tours, including FLSA days when used in conjunction with vacation and holiday.

C. As shown above, all members must select one-third (1/3) of the vacation time earned during the previous calendar year. Members retiring during the calendar year are exempt from this provision.

D. For purposes of determining years of service, as identified in Paragraph A above, effective January 1, 2003, Paramedics shall receive credit for service as a Paramedic with Lakewood Hospital. Said credit for this service shall be determined on the basis of a 1.5 ratio, that is, for every 1.5 full years of service with Lakewood Hospital, the employee shall have one (1) full year of credit for purpose of determining years of service for vacation accrual.

15.02 Accumulation.

A. All members may accumulate up to, but not exceed, twenty-two (22) vacation tours (528 hours). B. Accrued vacation time in excess of accumulation permitted in Paragraph A, which is carried over to the next calendar year, shall be forfeited.

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15.03 For all employees, in the event an extraordinary emergency or extraordinary circumstances which, upon approval of the Fire Chief, necessitates the abandonment of vacation or holiday leave, that leave shall be taken later that year if time is available. If it is determined by the City that time is not available, then such time may be carried over to the next calendar year and must be taken in that year. Under no circumstances will the exercise of this provision allow for any conversion of accumulated vacation time in excess of the amounts set forth in this Agreement. Accrued time in the vacation account of each employee shall be paid at the rate of one-fifty second (1/52) of their current salary for each week, twenty-four (24) times their hourly earning rate for each hour, and the appropriate percentage of twenty-four (24) times their current hourly rate for each partial hour, up to a maximum of twenty-five (25) vacation tours (600 hours), at the time of the employee's retirement, termination or resignation, or to their state, in case of the death of the employee.

15.04 Random Selection

A. Following the general selection procedure, as outlined in the current department general orders, all remaining vacation time and individual holiday time will be granted on a first-come, first-served basis if one (1) vacation or holiday selection slot is available.

15.05 Pursuant to Division of Fire rules and regulations governing same:

A. Commencing in November 2014 and continuing each year thereafter, one employee from this bargaining unit shall be permitted to select vacation or holiday time off each day for the next calendar year.

ARTICLE 16

HOLIDAYS

16.01 Employees of the Division of Fire shall be granted eleven (11) holidays to include New Year's Day, President's Day, Good Friday, Easter, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, Martin Luther King Jr. Day, plus one (1) twenty-four (24) hour off-duty period classified as a personal business day, provided the employee works a full year in which the holidays occur. These holidays shall be granted in the form of six (6) twenty-four (24) hour off-duty periods to compensate employees for holidays actually worked. These twenty-four (24) hour off-duty holidays may be divided, upon request, into two (2) twelve (12) hour half holidays. All holiday off-duty periods shall be selected in accordance with the seniority plan.

16.02 The twenty-four (24) hour personal business day may be selected in one (1) twenty-four (24) hour period.

16.03 Employees may forward a written request no later than December 15th of each calendar year to the Chief for payment of up to one hundred forty-four (144) holiday hours in lieu of time off. Payment for said hours shall be made the following January and shall be made at their hourly rate for conversion of leave to cash, not to include any supplemental pay provided by this Agreement.

16.04 Employees scheduled to work the actual holiday, excluding the employee's personal business day, shall receive a premium pay of one and one-half (1-1/2) their hourly rate for conversion of leave to cash

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17.03 Life Insurance

The City shall provide a policy of life insurance in the amount of \$25,000.00 to every employee of the Division of Fire who shall have the right to convert said policy at the rates established by the insurance carrier upon the employee's termination. The insurance shall be written by a recognized insurance carrier and all premium costs shall be borne by the City.

17.04 Liability Insurance

Subject to the limits of the policy, whenever an employee is on duty, insurance coverage shall be provided when said employee of the Division of Fire is operating any city owned vehicle in the performance of assigned duties to protect the employee fully against any and all claims arising out of the authorized operation of said city vehicle. This insurance must cover all claims for property damage and personal injury, and shall be the sole responsibility of the City to provide and maintain. Additionally, the City will provide full legal defense to any employee in any legal action arising out of the authorized operation of said city vehicle.

17.05 Accidental Death and Dismemberment Policy

The City shall provide an Accidental Death and Dismemberment (AD&D) Insurance Policy for all bargaining unit employees in the amount of \$125,000.00.

ARTICLE 18

DISCRIMINATION

18.01 Both the City and the LPA recognize their respective responsibilities under the Federal and State Civil Rights Law, Fair Employment Practice Acts, and other similar constitutional and statutory requirements. Therefore, both the City and the LPA hereby affirm their commitments, legal and moral, not to discriminate, in any manner, relating to employment on the basis of race, color, creed, national origin, sex, age, disability, gender identity/expression, genetic information, military status, veteran status, sexual orientation, union membership or activity, or ancestry. The LPA shall share equally, with the City, the responsibility for applying this provision of the Agreement.

ARTICLE 19

DISCIPLINE

19.01 In all cases where written and formal charges have been placed against employees which could result in reprimand, loss of off-duty time, suspension, fine or punishment of any kind, the employee shall receive from the Chief of Fire copies of the exact charges filed. In the case of company discipline, an employee may request their immediate supervisor to furnish written and formal charges. To the extent practical, a hearing shall be held no less than seven (7) days and not later than fourteen (14) days after the issuance of the charge.

19.02 At the request of the employee, the Association may provide appropriate defense for the employee during any hearing of said charges.

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for all hours worked. Employees who work four (4) or more consecutive hours in an acting capacity pay assignment shall receive premium at the acting rate of pay. Meal time shall not be deducted.

16.05 Employees must take or convert holiday time during the year in which it is earned and holidays shall not be accumulated.

16.06 Employees required to work overtime on New Year's Day, Easter, Thanksgiving and Christmas shall be paid at the rate of two (2) times their hourly rate for conversion of leave to cash.

ARTICLE 17

MEDICAL COVERAGE AND INSURANCE

17.01 The City agrees to provide for full-time employees and their dependents a choice of health care plans, provided the City may change either carriers or delivery systems if the benefits and provider networks are comparable to the present plan. The City shall not offer less than two (2) plans: A 100% plan and a 90/10 plan.

The City retains discretion to set the employee premium contributions for the 100% plan.

17.02 Effective January 1, 2017 employees shall pay the following monthly amount towards the costs of the plan premium or expected costs of such medical or prescription drug plan on a pretax basis.

Coverage under the 90/10 Plan, monthly employee premium contributions shall be ten percent (10%) for family coverage and thirteen percent (13%) for single coverage, based on COBRA rates (medical and prescription drug), with a cap of \$180.00 per month for family and \$125.00 per month for single.

Effective January 1, 2018, for employees electing coverage under the 90/10 Plan, monthly employee premium contributions shall be ten percent (10%) for family coverage and thirteen percent (13%) for single coverage, based on COBRA rates (medical and prescription drug), with a cap of \$180.00 per month for family and \$125.00 per month for single.

Effective January 1, 2019 is a reopening. Premium contributions are based on the City's COBRA rates (including prescription drug premium cost), which are set annually.

The "100%" and the "90/10" Summary of Benefits and Coverage for 2017, including prescription drug coverage, as well as a chart of approved plan design changes to be put into effect during the life of this contract are attached hereto as Appendix C.

The Employer shall establish an Insurance Committee of one (1) to three (3) representatives from each of the City's bargaining units, if they choose to be represented and a minimum of one (1) representative of the Employer. The Committee shall meet at least once a month for the purpose of exploring cost saving measures and/or alternative health plans. The Committee shall make recommendations regarding health care coverage and such recommendations shall be presented to each bargaining unit as well as to the City Administration. This Committee shall be administered pursuant to Appendix F, attached hereto.

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19.03 An employee against whom disciplinary charges have been placed shall, at their option, be allowed to call witnesses to testify at the hearing. The Chief of Fire will give their testimony full consideration when arriving at the findings.

19.04 The Chief of Fire shall issue a decision on the findings within five (5) days of the hearing and will supply copies of the decision to the employee against whom the charges were placed and to the Association.

19.05 All findings resulting from disciplinary charges shall be appealable under the grievance procedure (Article 20), beginning with Step III of said procedures.

19.06 The time limits set forth in this Article may be modified by mutual, written agreement of the City and the Association.

ARTICLE 20

GRIEVANCE PROCEDURE

20.01 It is mutually understood that the prompt presentation, adjustment and/or answering of grievances is desirable in the interest of sound relations between the employees and the City. The prompt and fair disposition of grievances involves important and equal obligations and responsibilities, both joint and independent, on the part of the representatives of each party to protect and preserve the grievance procedure as an orderly means of resolving grievances.

Actions by the City or the Association which tend to impair or weaken the grievance procedure are improper.

20.02 A grievance is a dispute or difference between the City and the Association, or between the City and an employee, concerning the interpretation, and/or application of, and/or compliance with any provision of the Agreement, including all disciplinary actions; and when any such grievances arise, the following procedure shall be observed.

Step I. An employee who has a grievance shall reduce it to writing, sign and submit it to the Chief of Fire. Within seven (7) days of receiving the grievance, the Chief of Fire shall meet with the grievant and Association representatives in an attempt to adjust the grievance. Within seven (7) days after the Step I meeting, the Chief of Fire will supply a written answer to the grievant and to the Association.

Step II. If the employee's grievance is not satisfactorily settled at Step I, the Association may appeal the grievance to the Mayor within seven (7) days after the receipt of the Step I answer. After receipt of the appeal, the Mayor, or a designated representative, and Association representatives shall meet to consider the grievance at a time mutually convenient to all parties, but in no event shall such a meeting commence later than fourteen (14) days after the appeal of the Step I response. The grievant or grievants may or may not be present at this meeting. Within seven (7) days of the Step II meeting, the Mayor, or a designated representative, shall furnish the Association a decision in writing.

Step III. If the grievance is not satisfactorily settled at Step II, the Association may, within thirty (30) calendar days after receipt of the Step II answer, submit the matter to arbitration. The Association shall notify the American Arbitration Association and the City simultaneously of its intent to appeal the grievance to arbitration. Upon written notice of the Association's intent to arbitrate a grievance, the American Arbitration Association shall submit a panel of seven (7) arbitrators to each party, and the arbitrators will be chosen in accordance with the Association's then applicable rules and regulations. The fees and expenses of the arbitrators shall be borne equally by the parties. Arbitration hearing shall be held in the City of Lakewood, on City property.

20.03 The Association may select up to two (2) employees to attend the hearing (including officers and witnesses) who shall not lose any regular straight time pay for the time off the job while attending any arbitration proceeding.

20.04 In the event a grievance goes to arbitration, the arbitrator shall have jurisdiction only over disputes arising out of grievances and, in reaching a decision, the arbitrator shall have no authority to add to or subtract from or modify, in any way, the provisions of this Agreement.

20.05 The grievance procedure set forth herein shall be the exclusive method of reviewing and settling disputes between the City and the Association, and/or between the City and employee(s).

All decisions of arbitrators and all pre-arbitration grievance settlements reached by the Association and the City shall be final, conclusive and binding on the City, the Association and the members. A grievance may be withdrawn by the Association at any time during Step I, II, or III of the grievance procedure, and the withdrawal of any grievance shall not be prejudicial to the positions taken by the parties as they related to that grievance or any other grievance.

20.06 Time limits set forth in a grievance procedure shall, unless extended by mutual written agreement of the City and the Association, be binding on both parties. In the event the Union fails to file initially or appeal a grievance to the next step within the time limits provided, such grievance shall be deemed null and void. In the event the City fails to answer the grievance within the time limits provided, the grievance shall automatically be moved to the next step. Working days, as provided in the grievance procedure, shall not include Saturdays, Sundays or holidays. It is understood that there shall be written acknowledgment noting the time and date the Association and the City have received the grievance in each respective step during the grievance procedure. All withdrawals of grievances by the Association shall be in writing with a copy being sent to the Chief, Division of Fire, and the Director of Human Resources.

ARTICLE 21

MANAGEMENT RIGHTS

21.01 Except as specified otherwise in this Agreement, the City has the right and responsibility to: Determine matters of inherent managerial rights, which include, but are not limited to, areas of discretion or policy, such as the functions and programs of the City, standards or services, its overall budget, utilization of technology and organizational structure; direct, supervise, evaluate and hire employees; maintain and improve the efficiency and effectiveness of the City's operations, including the right to reorganize, discontinue, or enlarge any work; manage the operations and determine the overall methods, process, means or personnel by which the City's operations are to be conducted; suspend, discipline, or discharge for just cause, or layoff; transfer (including the assignment and allocation of work) within the division; assign, schedule, promote or retain employees; determine the adequacy of and direct the work force; determine the overall mission of the City as a unit of government; effectively manage and direct the premises and facilities to carry out the mission of the City as a governmental unit; control the premises and facilities and determine the number and location of facilities; promulgate and enforce reasonable employment rules and

23.04 A Labor/Management Committee consisting of the Mayor, or a designated representative, and the Chief of Fire, or a designated representative, and the President of the Association, plus one (1) member of each shift, shall be established, and this committee shall meet every three (3) months for the purpose of discussing and attempting to resolve any work related problems.

ARTICLE 24

PROTECTION OF PERSONAL PROPERTY

24.01 Each employee shall be assigned their own personal lockers. These lockers shall be the sole personal responsibility, and no other person shall be permitted access to such lockers, except upon written authority of the employee to whom the locker is assigned. The Chief of Fire shall have the right to order an employee to open their locker for inspection in the Chief's presence.

An employee required to perform their duties in stations other than their regularly assigned station will be provided with lockers for the protection of their personal property.

ARTICLE 25

SEVERABILITY

25.01 If any provision of the Agreement, or the application of such provision, should be rendered or declared invalid by any final court action or by reason of any existing, amended or subsequently enacted legislation, the remaining parts or portion of the Agreement shall remain in full force and effect, and shall be otherwise affected by any of the above-named actions.

ARTICLE 26

PREVAILING RIGHTS

26.01 All rights and working conditions enjoyed by the employees at the present time, such as firehouse supplies (soap, toilet paper, light bulbs, etc.), firehouse tools (lawn mowers, tools for minor repairs), firehouse linears, firehouse utilities (heat, light, water) and other similar benefits of the job, which are not included in this Agreement, shall remain in full force.

26.02 For the term of this Agreement, the City shall not diminish the benefits enumerated above.

26.03 An employee of the Division of Fire shall have the opportunity to examine their own individual personnel file once every six (6) months. In order for an employee to have access to their personnel file, the employee must give the Human Resources Director one (1) day notice of their request, and the actual examination must be in the presence of the Human Resources Director, or designee, Monday through Friday, during normal working hours.

26.04 Meal Hours

A. Employees of the Division who are on duty New Year's Day, Easter Sunday, Thanksgiving Day and Christmas Day shall be guaranteed two (2) hours off for meal hours. This meal bonus shall be eliminated effective January 1, 2011 per the conditions outlined in Section IS.OS-B.

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regulations; introduce new and/or improved equipment, methods and/or facilities; determine the size, duties and work methods of the work force; determine the number of shifts required to work schedules; establish, modify, consolidate or abolish jobs (or classifications); determine the manner in which the work is to be processed; and determine staffing patterns, including, but not limited to, assignment of employees, numbers employed, duties to be performed, qualifications required and areas worked.

21.02 The City, at its discretion, may assign work that may normally be performed by firefighters to bargaining unit employees, provided the employee has been trained and is capable of performing the assignment.

21.03 The foregoing are subject to the restrictions and regulations governing the exercise of these rights as are expressly provided herein.

ARTICLE 22

NO STRIKE/NO LOCKOUT

22.01 The Association shall not, directly or indirectly, call, sanction, encourage, finance, and/or assist, in any way, nor shall any employee instigate or participate, directly or indirectly, in any strike, slowdown, job action, walkout, concerted "sick" leave, work stoppage, unlawful picketing, or interference of any kind at any operation or operations of the City.

22.02 Any employee(s) who violates Section 1 of this Article shall be subject to discharge or other disciplinary action at the complete discretion of the City, subject to appeal to the Civil Service Commission and the courts of law or the grievance procedure.

22.03 The City shall not lock out any employee for the duration of this Agreement.

ARTICLE 23

UNION RIGHTS

23.01 The City agrees that during working hours, on City owned premises, and without loss of time or compensation, Association officers, or their designated representatives, shall be permitted to:

A. Post Association notices.

B. Transmit communications, authorized by the Association or its officers, to the City or its representatives in the Division of Fire.

23.02 Meetings held for the purposes of negotiating agreements, or for the processing of grievances, will be scheduled at a time mutually convenient to all parties. Association officers, or their designated representatives, shall be permitted to attend these meetings and will not suffer any loss of time or compensation if these meetings occur during working hours. Association officers required to attend other official hearings or meetings by the City, on City premises, will not suffer any loss of time or compensation if the hearing or meeting occurs during working hours.

23.03 The Association may conduct Union meetings on a quarterly basis, on City property, provided the meetings shall be scheduled and conducted so as not to interfere with the effective operation of the division.

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26.05 Trading Time

A. An employee may trade time if the change does not interfere with the operation of the Division of Fire. Trading of four (4) hours or less must have the approval of the employee's immediate supervisor. All other trades must have the approval of the Assistant Chief. All trades are limited to employees within the bargaining unit.

ARTICLE 27

AGREEMENT SUPERSEDES

27.01 Any City ordinance, Division of Fire rules, regulations, general and special orders, Civil Service regulations and verbal orders that directly conflict with express terms of this Agreement shall be superseded by this Agreement.

ARTICLE 28

OBLIGATION TO NEGOTIATE

28.01 The City and the Association acknowledge that during negotiations, which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining/negotiations and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

28.02 Therefore, for the life of this Agreement, the City and the Association each voluntarily and unqualifiedly waive the rights, and each agrees that the other shall not be obligated to negotiate collectively with respect to any subject or matter referred to or covered in this Agreement.

ARTICLE 29

SAFETY COMMITTEE

29.01 There shall be one joint Safety Committee in the City of Lakewood, Division of Fire, composed of two (2) members selected by Local 382, and one (1) member selected by LPA and two (2) members selected by the Fire Chief. At least one member of the Safety Committee shall be an officer. Minutes of meetings shall be maintained by the Committee and forwarded to the Fire Chief.

29.02 The Safety Committee shall meet quarterly, or more or less often by mutual consent, and such meetings shall be scheduled at the time established by the Chief of the Division of Fire, or designee, who shall preside at all meetings.

29.03 The purpose of these meetings will be to discuss problems and objectives of mutual concern, concerning safety and health conditions of the Division of Fire.

ARTICLE 30

UNION LEAVES

30.01 The president, or designee, shall be permitted to attend at least one (1) conference per year without loss of compensation.

ARTICLE 31

NOTIFICATION CONCERNING OTHER EMPLOYERS

31.01 All employees shall provide the Fire Chief with the names, addresses and telephone numbers of all off-duty employers.

ARTICLE 32

DURATION OF AGREEMENT

32.01 This Agreement shall be effective as of the date of ratification January 1, 2017, and shall remain in full force and effect until the 31st day of December, 2019. It shall automatically be renewed from year to year thereafter, unless either party shall have notified the other, in writing, on or before September 15th, before the anniversary date, that it desires to terminate, modify or amend the Agreement, and negotiations shall then commence no later than October 15th.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the ____ day of ____ 2017

LAKESWOOD PARAMEDIC ASSOCIATION

Herbert J. Tipton, President

Matthias Burke, Comm. Member

CITY OF LAKESWOOD

Michael Summers, Mayor

Kevin Butler, Law Director

Jean M. Yousefi, Dir. of Human Resources

Scott Gilman, Fire Chief

APPENDIX A

2017 3% increase CLASSIFICATION	Average Annual Sal- ary	Regular Hourly Rate	Regular Annual Rate	Scheduled Overtime Hourly Rate	Scheduled OT Annual Rate	Non- Scheduled Overtime Hourly Rate
Paramedic Supervi- sor	\$75,595.80	\$26.17	\$54,428.98	\$39.14	\$21,166.82	\$54.52
Paramedic	\$61,964.89	\$21.45	\$44,614.72	\$32.08	\$17,350.17	\$44.69
2018 2% increase						
Paramedic Supervi- sor	\$77,107.72	\$26.69	\$55,517.56	\$39.92	\$21,590.16	\$55.61
Paramedic	\$63,204.19	\$21.88	\$45,507.02	\$32.72	\$17,697.17	\$45.58
2019 2% increase						
Paramedic Supervi- sor	\$78,649.87	\$27.22	\$56,627.91	\$40.72	\$22,021.96	\$56.72
Paramedic	\$64,468.27	\$22.32	\$46,417.16	\$33.38	\$18,051.12	\$46.49

APPENDIX B

BARGAINING UNIT SENIORITY ROSTER

Paramedic:

Flynn
Siddell
Tippie
Davey
Rufo
Russell

Paramedic Supervisor:
Burke
Mackin
Monahan

APPENDIX C

Medical Mutual of Ohio 100% Plan

City of Lakewood : Plan 1 PPO HI Plan 2017
Summary of Benefits and Coverage: What This Plan Covers & What It Costs
Coverage Period: 01/01 - 12/31
Coverage for: Single or Family (Plan Type) PPO
This is only a summary. If you want more detail about your coverage and costs, you can get the complete terms in the policy or plan document at MedicalMutual.com/SSC or by calling 800.540.2563.

Important Questions: Answers		Why This Matters:
What is the overall deductible?	Yes/No Doesn't apply to comprehensive, complete, and network preventive care	You must pay all the costs up to the deductible amount before the plan begins to pay for covered services you use. Check your policy for the deductible amount. See the chart starting on page 2 for how much you pay for covered services after you meet the deductible.
Are there other deductibles for specific services?	No	You don't have to meet deductibles for specific services, but see the chart starting on page 2 for other costs for services that plan covers.
Is there an out-of-pocket limit on my expenses?	Yes \$1,650/Single \$3,300/Family Network \$1,650/Single \$3,300/Family Non-Network	The out-of-pocket limit is the most you could pay during a coverage period (usually one year) for your share of the cost of covered services. This includes your part for health care expenses. Even though you pay these expenses, they don't count toward the out-of-pocket limit.
What is not included in the out-of-pocket limit?	Prescription, Maternity, Child Care, and health care this plan doesn't cover.	The chart starting on page 2 describes any limits on what the plan will pay for specific covered services, such as office visits.
Is there an overall annual limit on what the insurer pays?	No	If you use an in-network doctor or other health care provider, the plan will pay some or all of the costs of covered services. It won't pay for out-of-network doctors or hospitals (may use in use of network providers). See the chart starting on page 2 for how the plan pays different kinds of providers.
Does this plan use a network of providers?	Yes. See MedicalMutual.com/SSC or call 800.540.2563. For list of participating providers.	You can use the participating providers without penalties from this plan.
Do I need a referral to see a specialist?	No	Some of the services this plan doesn't cover are listed on page 5. See your policy or plan document for additional information about restricted services.
Are there services this plan doesn't cover?	Yes	

Questions: Call 800.540.2563 or visit us at MedicalMutual.com/SSC. If you have questions about the underlined terms used in this form, see the Glossary. You can view the Glossary at MedicalMutual.com/SSC or call 800.540.2563 to request a copy.

Page: 1 of 8
04/03/2019
ID: H41164576234-0006

Coverage Period: January 1st 2017 - December 31st 2017

Excluded Services & Other Covered Services:

Other Covered Services (This task is complete if: Check your policy or plan documents for other covered services.)

- Specialist Surgery
- Mental Health Treatment
- Prescription Drug Coverage
- Chiropractic Care

Your Rights to Continue Coverage:

If you lose coverage under this plan, later, depending upon the circumstances, you may be able to continue your coverage under this plan for a limited period of time. For more information, see the "Continuation of Coverage" section of this plan document.

Your Grievance and Appeals Rights: For questions about your rights, please call the toll-free number 1-800-368-7247. If you have a complaint or are dissatisfied with a finding of coverage, you may be able to appeal or file a grievance. For questions about your rights, please call the toll-free number 1-800-368-7247.

Your Grievance and Appeals Rights:
If you have a complaint or are dissatisfied with a denial of coverage for claims under your plan, you may be able to appeal or file a grievance. For questions about your rights, contact the plan administrator at 800.355.2424.

Language Access Services
800.237.7400

Questions: call 800.237.7400 or visit us at lasc.org.
We are not responsible for any loss of data or damage to your system caused by the use of our software. We are not responsible for any loss of data or damage to your system caused by the use of our software.

Year	Plan	Percent of employee premium contribution	Employee premium contribution to-exceed amount	Plan design change
2017	MMO 90/10 single	13%	\$75	Deductible stays at \$500; out-of-pocket stays at \$2,000
	MMO 90/10 family	10%	\$125	Deductible stays at \$1,000; out-of-pocket stays at \$4,000
	MMO 90/10 single	13%	\$100	Deductible stays at \$500; out-of-pocket max stays at \$2,000
2018	MMO 90/10 family	10%	\$167	Deductible stays at \$1,000; out-of-pocket max stays at \$4,000
2019 is a re-opener				

Year	Plan	Percent of employee premium contribution	Employee premium contribution to-exceed amount	Plan design change
2017	MMO 90/10 single	13%	\$75	Deductible stays at \$500; out-of-pocket stays at \$2,000
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2018	MMO 90/10 family	10%	\$167	Deductible stays at \$1,000; out-of-pocket max stays at \$4,000
2019 is a re-opener				

Pharmacy Program	Program Description
Generic Incentive	Requires use of generic drugs when available – if choose to fill with brand name not generic must pay the brand co-pay PLUS the difference in price between the brand and the generic

Appendix F
Insurance Committee Rules

At the conclusion of the bargaining units' current collective bargaining negotiations, an employee-management committee represented by between one and three employees from each of the city's seven bargaining units and at least one representative of management shall be formed. The employer shall and the members of the committee may provide advisors or facilitators to assist the committee regarding health care issues. The committee will meet as often as necessary to complete its work, with a target of at least one meeting per month.

The committee shall be required to review the employer's current health care plans, including its plans for medical and prescription, and adopt one or more new or revised plans that are competitive in the health care market, will not be considered so-called "Cadillac Plans" under the Affordable Care Act and that will achieve the goals of promoting cost containment within the plan and minimizing premium contributions by employees.

In fulfilling its mission, the committee shall consider office co-pays, prescription drug rates, deductibles, maximum out of pockets, wellness programs and such other plan attributes and other related matters that may help the city achieve the goals set forth above.

No later than September 1, 2018, the committee shall vote upon proposed new or revised health care plan or plans that meet the goals set forth above. Each bargaining unit shall be entitled to cast one vote, no matter the number of employees representing the bargaining unit on the committee. The employer shall be entitled to cast one vote, no matter the number of representatives of management or non-union employees serving on the committee. If the committee unanimously approves such proposed new or revised plan or plans, then such plan or plans shall become the employer's plan or plans, and the employer shall be authorized and directed to implement the plan or plans. If the committee, however, fails by September 1, 2018 to approve unanimously a new plan or plans, then the reopener provisions in this agreement with respect to hospitalization coverage for the year 2019 will apply and the parties to this agreement will then separately engage in negotiations on that subject.

In 2019 the committee shall meet when appropriate to consider further and additional revisions to the employer's plan or plans in order to meet the goals set forth above. When meeting in 2019, the committee and the employer shall continue to follow the procedures set forth above for approving appropriate additional revisions to the employer's health care plan or plans. Neither party shall unreasonably refuse to participate in any committee meetings called by the employer.

Specialty drugs are limited to a 30 day supply and require specialty pharmacy network

3 parts to this plan: Pre-authorization on certain drugs (takes 24 - 72 hours); Quantity Duration rules for limited number of doses in a certain timeframe; Preferred drug step therapy rules - requires the use of generic or lower cost brand name alternatives before higher cost non-preferred drugs, unless special circumstances exist.

Specialty Solutions

Basic Plus Formulary

APPENDIX E

LETTER OF UNDERSTANDING

Employees assigned to perform the duties of Paramedic Supervisor, in accordance with Article 3 (Wages and Hours), Section 2, shall be paid for such time worked as follows:

Paramedic Supervisor Average Annual Salary divided by 2080 = Hourly Average Rate
Paramedic Average Annual Salary divided by 2080 = Hourly Average Rate

Difference = Acting Pay Supplement

Signed by:

Herbert J. Tippie

Michael J. Monahan

Matthais F. Burke

Lawrence E. Mroz

Kevin W. Reynolds

9-17-02

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APPENDIX D

LETTER OF UNDERSTANDING

(Reserved.)

For purposes of proving payment under Article 12 (Sick and Pregnancy Leave), Sections 2 and 10, Article 14 (Perfect Attendance), and Article 16 (Holidays), Sections 2 and 4, it is understood that hourly rate of pay shall be calculated as follows:

Annual Rate (as in Appendix A) divided by 2620.8 hours = hourly rate for conversion of leave to cash.

Signed by:

Herbert J. Tippie

Michael J. Monahan

Matthais F. Burke

Lawrence E. Mroz

Kevin W. Reynolds

9-17-02

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MEMORANDUM OF UNDERSTANDING:LABOR/MANAGEMENT CONFERENCE RESOLUTION

As a result of the various fact-finding determination and related issue resolution in the recently concluded contract negotiations between the City of Lakewood and the two unions that represent employees in the Division of Fire, questions arose concerning the definite character of the prohibition against "trading time" between members of the two different collective bargaining units, members of International Association of Firefighters and members of the Lakewood Paramedics Association.

The City of Lakewood has proposed this memorandum of understanding to clarify its understanding of the issues:

- 1) "Trading time" between members of the two different units, i.e. between Firefighter member and Paramedic member, or vice-versa, is prohibited;
- 2) "Professional courtesy" time concerns staying over or coming early to accommodate service to the public and to alleviate problems at shift change, and it is not considered by the City of Lakewood or its employee Unions to be "trading time."
- 3) Professional courtesy is not presumed to extend longer than ninety (90) minutes, since most shift change situations and accommodations for difficulties can be accomplished in less than ninety (90) minutes;
- 4) Professional courtesy, as defined as defined in subparagraph 2) above, is expressly to be allowed between members of the two different collective bargaining units, i.e. A Firefighter member may extend or receive "professional courtesy" to or from a Paramedic unit member, and Vice Versa.
- 5) It remains the obligation of every employee of the Division of Fire, for the good order of the force, to take reasonable steps to assist in maintaining adequate staff manning, and to prevent the foregoing authorized "professional courtesy" from lapsing into prohibited "trading time" between members of the different units. Full communication to supervising officers is an essential element of that obligation.

The City of Lakewood and its undersigned authorized union representatives remain committed to resolving amicably issues of this character in all ways possible and reasonable for the good order of the force and the continued high quality service to the citizens of the City of Lakewood.

APPROVED:

Signed by Lawrence Mroz, Chief, David Dargay, IAFF President; Herbert Tippie, LPA President

4-12-06

APPENDIX G

(Reserved.)

15.04 Random Selection

A. Following the general selection procedure, as outlined in the current department general orders, all remaining vacation time and individual holiday time will be granted on a first-come, first-served basis; if one (1) or more of the vacation or holiday selection slots are available.

B. Due to the granting of meal bonus on certain holidays, such as Easter, Thanksgiving, Christmas Day and New Year's Day, no full holiday time off shall be given on these days due to the manpower shortage it would create. Half holiday time may be granted on these days after meal hours are completed if sufficient manpower is available, based upon minimum manning requirements.

15.05 For purposes of this section, the term "employees" shall be defined to include members of the bargaining unit and the Fire Fighter bargaining unit.

Three (3) employees shall be permitted to select vacations or holiday time off each day pursuant to Division of Fire rules and regulations governing same.

APPENDIX H

LETTER OF UNDERSTANDING

The City, and the Lakewood Paramedic Association, agree to the following change to the MOU on staffing levels. Because of changes to the CAD and station alerting systems the response to zones 23, 28 and the Westerly will be reviewed in a joint 382, LPA labor management meeting.

In the event that there are only two (2) LPA members on duty both LPA members shall be assigned to Squad 1.

In the event that an LPA member assigned to Squad 1 is on extended scheduled time off a member of LPA that is assigned to Squad 2 shall be detailed to Squad 1 for those shifts.

Changes in staffing that occur after the start of shift will not require realignment of staffing.

Staffing Distribution Number of Personnel											
TRUCK 1	4	2	4	5	4	5	4				
SQUAD 4	2	0	0	2	2	2	0	0			
CAR 2	2	2	2	2	2	2	2	2			
SQUAD 1	2	2	2	2	2	2	2	2			
ENG 4	4	4	4	4	0	0	0	0			
ENG 2	4	4	4	4	4	4	4	4			
SQUAD 2	2	2	2	2	2	2	2	2			
ENG 3	4	4	4	4	4	4	4	4			
SQUAD 3	2	2	2	2	2	2	2	2			
TOTAL	26	25	24	23	22	21	20				

LAKESWOOD PARAMEDIC ASSOCIATION

CITY OF LAKESWOOD

Herb Tippie
President

Scott Gilman
Fire Chief

Kevin Butler
Law Director

DATE: _____

BY:

RESOLUTION NO. 8922-17

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, ratifying and authorizing the Mayor of the City of Lakewood, Ohio, to enter into an Agreement with the Lakewood Association of Firefighters, IAFF Local 382, for a three-year period commencing January 1, 2017 and ending December 31, 2019.

WHEREAS, the administration has conducted extensive negotiations with the Lakewood Association of Firefighters, IAFF Local 382 (the "Union") as the bargaining representative for certain employees of the City; and

WHEREAS, such negotiations have provided a tentative agreement between the parties for the years 2017-2019; and

WHEREAS, Council and the administration have reviewed such proposal and do desire to ratify and adopt such agreement; and

WHEREAS, this Council by a vote of at least five members thereof determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it provides for the usual daily operation of municipal departments in that the current agreement expired on December 31, 2016; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Council hereby ratifies and authorizes the Mayor to enter into an Agreement for a three-year period with the Union, on behalf of certain employees of the City, commencing January 1, 2017 and ending December 31, 2019; the form of the agreement is attached as Exhibit A and shall be on file in the office of the Director of Law.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were passed in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the

Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Approved: _____

Clerk of Council

Mayor

2/26/17 A

AGREEMENT
BETWEEN
THE CITY OF LAKEWOOD
AND
LAKEWOOD ASSOCIATION OF FIREFIGHTERS
LOCAL #382 OF THE INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, AFL-CIO
JANUARY 1, 2017 – DECEMBER 31, 2019

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AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Lakewood, Ohio, hereinafter referred to as the "City," and the Lakewood Association of Firefighters, Local #382, of the International Association of Firefighters, AFL-CIO, hereinafter referred to as the "Association." The term "member" or "members," where used in this Agreement, refers to all classified sworn members of the Division of Fire, excluding the Chief of Fire and one (1) officer from the rank of Assistant Chief designated by the Chief as the Executive Assistant Chief, and excluding all other employees represented by other unions.

It is the purpose of this Agreement to achieve and maintain harmonious relations between the City and the Association, to provide the City with the finest, most efficient and most effective firefighting force possible; to provide the maximum protection for life and property; to provide a fair and responsible method of enabling members covered by this Agreement to participate through Union representation in the establishment of terms and conditions of their employment; and to establish a peaceful procedure for the adjustment and resolution of differences which may arise under this Agreement between the parties.

The male pronoun or adjective where used herein refers to the female also, unless otherwise indicated.

ARTICLE 1 RECOGNITION

1.01 The City hereby recognizes the Lakewood Association of Firefighters, Local #382, of the International Association of Firefighters, AFL-CIO, as the sole and exclusive agent and representative of all classified members, excluding the Chief of Fire and the Executive Assistant Chief of the Division of Fire in the City of Lakewood, for the purpose of collective bargaining and representation with respect to wages, hours, and all other terms and conditions of employment, pursuant to 4117 et seq. Ohio Revised Code.

ARTICLE 2 CHECK OFF

2.01 The City shall deduct, each month, dues from the pay of members covered by this Agreement, provided that any member shall have the right to revoke such authorizations, pursuant to the provision of Section 4117 of the Ohio Revised Code. The City shall transmit to the Association, on or before the fifteenth (15th) working day of the following month, all monies withheld during each month, along with a list of all members for whom deductions have been made, and, upon receipt, the Association shall assume full responsibility for the disposition of all funds deducted.

2.02 All members of the Division of Fire who are not members of the Lakewood Association of Firefighters, Local #382, of the International Association of Firefighters, AFL-CIO, shall have deducted from their pay a fair share fee according to the by-laws of the Association.

ARTICLE 3 WAGES AND HOURS

3.01 Effective January 1, 2017, all firefighters shall receive a three percent (3%) wage increase. Effective January 1, 2018, all firefighters shall receive a two percent (2%) wage increase. Effective January 1, 2019, all firefighters shall receive a two percent (2%) wage increase.

3.02 Differential.

- A. Firefighter Grade I (22 years of service) shall receive three (3) percent above Firefighter Grade I.
- B. Firefighters detailed as Assistant Mechanics, Fire Inspectors, shall receive a ten (10) percent base pay above that of Firefighter Grade I with less than twenty two (22) years of service.
- C. Fire Captains and Fire Marshal's shall receive a twenty (20) percent base pay above that of the Firefighter Grade I with less than twenty two (22) years of service.
- D. Assistant Chiefs shall receive a fifteen (15) percent base pay above that of Fire Captains and Fire Marshals.
- 3.03 Acting Pay.
 - A. Members who are assigned to perform the duties of a next higher ranked member (Captain, Assistant Chief) will receive the rate of pay for the job the member is filling.
 - B. Assignment for Acting Captain or Acting Assistant Chief shall first be based upon an active promotional list of the next lower rank by shift. In the event no active promotional list exists for the rank of Assistant Chief or Captain, selection for Acting Assistant Chief or Acting Captain shall be made by the Chief, Division of Fire, said selection being one (1) member from among the three (3) senior members in the next lower rank by shift provided the member has two (2) years of experience in that grade. In the event no active promotional list for Captain exists, selections for Acting Captain shall be made by the Chief, Division of Fire, from one (1) member from among the three (3) most senior Firefighter Grade I members on the shift indicating their desire for said assignment. In the event no one indicates their desire, the individual finishing highest per shift on the most recent promotional list for that position shall be detailed.
 - C. On days in which there is not an LPA member on duty to fill the Acting Supervisor position a senior Firefighter/Paramedic on duty shall be designated as the Acting EMS Supervisor. That member shall be paid at a rate 10% above the normal pay scale.
 - D. Assignment for Acting Paramedic Supervisor shall be made by the Chief, Division of Fire, from one (1) member from among the three (3) most senior Firefighter Paramedics on the shift indicating their desire for said assignment.

3.04 The City will provide the following annual stipends for members who maintain certification as an Emergency Medical Technician (B-Basic) and/or Emergency Medical Technician (P-Paramedic). Effective January 1, 2006, the stipend will be paid as two (2) lump sum payments, and payment will be made in the employee's regular paycheck in the months of April and October. The Finance department will notify members as to the pay date at least 2 weeks prior to the pay.

A. EMT-(B-Basic) - \$625.

B. EMT (P-Paramedic) - \$1,250.

3.05 The City will provide a stipend of \$800 to all members for HazMat Operations certification. The stipend will be paid in the employee's paycheck during the month of May. The Finance Department will notify the Union as to the pay date at least 2 weeks prior to the pay.

3.06 The number of paramedic certified firefighters on each shift should be 18 to ensure coverage on all apparatus. Members will be offered the opportunity based on seniority to drop their certification from Paramedic to EMT-B. Members eligible for this program must have at least 15 years of service with the Lakewood Fire Department. This is a voluntary program.

ARTICLE 4 LONGEVITY ALLOWANCE

4.01 All regular, full-time members of the Division of Fire shall receive a semi-annual longevity allowance, based upon the number of continuous full years of service, including interim military service, as determined on the dates of June 15th and December 15th in accordance with the following semi-annual schedule. Such payment to be made in the employee's regular paycheck in the months of June and December. Finance will notify the union as to the pay date at least 2 weeks prior to the pay.

5 Years	\$250.00	16 Years	\$800.00
6 Years	\$300.00	17 Years	\$850.00
7 Years	\$350.00	18 Years	\$900.00
8 Years	\$400.00	19 Years	\$950.00
9 Years	\$450.00	20 Years	\$1,000.00
10 Years	\$500.00	21 Years	\$1,050.00
11 Years	\$550.00	22 Years	\$1,100.00
12 Years	\$600.00	23 Years	\$1,150.00
13 Years	\$650.00	24 Years	\$1,200.00
14 Years	\$700.00	25+ Years	\$1,250.00
15 Years	\$750.00		

ARTICLE 5 UNIFORM MAINTENANCE

5.01 The City will supply and replace for every member of the Division of Fire a helmet, protective hood, fire coat, spanner wrench, boots, gloves, bunker pants, face pieces and other personal fire fighting equipment which may be required. All of the above supplied equipment shall be of an approved design and construction, and every member shall be expected to maintain and handle this equipment with reasonable care.

5.02 The City will pay to every member a uniform maintenance of \$500.00 in the months of March and September of each year. The Finance Department will notify members at least 2 weeks in advance of the date of the special pay. Payments will be made in the employee's regular paycheck.

5.03 A new member will receive a lump sum uniform maintenance payment of \$1,000.00 within sixty (60) days of the date of hire. Upon successful completion of the departmental probationary period, the member shall receive a uniform maintenance payment of \$1,000.00. Thereafter, the uniform allowance will be paid in accordance with Section 5.02 above.

5.04 Members whose uniform items are damaged or stolen in the line of duty shall report such damage or theft to their immediate supervisor. If it is determined by the Chief of the Division of Fire that the items cannot be reasonably repaired, the replacement or repair of the items will be at no cost to the member.

ARTICLE 6 OVERTIME

6.01 Any member who is recalled to work for an emergency after leaving their regular shift shall be paid for at least three (3) hours or all time worked, whichever is greater. An emergency call back is defined as an immediate need for personnel to be assigned during an incident. All emergency recalls shall be mandatory. Where particular skills, such as fire prevention, are required, only such personnel are to be called back. Call back credit for emergencies will begin at the time the telephone call is received. If there is a reduction in firefighters, as a result of an out-of-city emergency which causes manpower to fall below the established City minimum, the City will call back personnel to reach the necessary minimum. If there is a reduction in firefighters causing the number of firefighters to be below City minimum as a result of a long term commitment of three (3) hours or more outside of the City, the City will call back personnel to reach the necessary minimum.

6.02 Scheduled overtime to attend meetings, training classes and other non-emergency functions, by order of the Chief or a designee, or any holdovers from the previously scheduled shift, shall be paid at the rate of one and one-half (1-1/2) for a minimum of one (1) hour or the actual time worked, whichever is greater, and shall be mandatory unless excused for just cause.

6.03 Compensation owed for all overtime work shall be accrued in an overtime account of each member at the rate of one and one-half (1-1/2) times the actual time worked, subject to the minimum credit for call back referred to above. Members in the Division of Fire may elect, at their option, to

receive overtime or a compensatory time off basis at the rate of one and one-half (1-1/2) times the time worked or to be paid for overtime in the check for the pay period in which overtime was worked. Longevity, the Hazmat Operations Certification stipend, and EMT pay pursuant to Article 3.04 shall be included in the overtime rate calculation, but will not be included in compensatory time earned from non-overtime eligible sources, such as perfect attendance and holiday pay. Payment shall be made at the rate of one and one-half (1-1/2) times the current hourly rate.

6.04 For the purpose of overtime accumulation, the following schedule shall be applied.

A. Members with one hundred (100) hours or less of overtime in this account shall have the option to convert to cash all hours accrued as outlined in Paragraph C below. Furthermore, those hours in this account converted to cash may be replaced up to, but not more than, one hundred (100) hours. However, any member with more than one hundred (100) overtime hours accrued in their regular account at this time will automatically be paid down to one hundred (100) hours, whether requested or not.

B. All official court overtime duty ordered by the Director of Public Safety, the Director of Law or Assistant Prosecutor of the City of Lakewood, the Judge or Clerk of the Lakewood Municipal Court or Common Pleas Court, or in response to a subpoena or similar writ commanding appearance in a criminal or quasi-criminal case arising out of an incident while on duty as a member of the Lakewood Division of Fire, shall be compensated at the rate of time and one-half (1-1/2) for all time worked in excess of their regularly scheduled workweek.

C. Any qualified member covered under this contract may forward a written request to the Chief of Fire for payment of accrued overtime hours not later than November 15th and June 15th of each year. Payment of the overtime shall be paid in December and July. The Finance Department will notify members of the date at least 2 weeks prior to the pay.

ARTICLE 7 WORKWEEK

7.01 The workweek shall consist of an average of 50.4 hours each week. Members detailed to work forty (40) hours each week shall be required to work five (5) eight (8) hour days or four (4) ten (10) hour days upon approval of the Chief.

7.02 Excluding members detailed to work forty (40) hours each week, the workweek will be an average of 50.4 hours per week.

ARTICLE 8 EDUCATIONAL CREDIT

8.01 The City shall inform members of any fire related courses or seminars being conducted, provided that the City shall continue to have the sole discretion on approving member requests to

attend these courses or seminars. The City shall continue to pay the total cost of books and tuition for any member achieving a grade "C" or better in any accredited fire related courses.

8.02 If the department mandates the attendance of a member to a particular course or seminar (excluding the state required basic firefighter training course), the member shall be paid one and one-half (1-1/2) times the hourly rate for class time and travel time, plus all expenses (tuition, lodging, meals, mileage, and other related expenses).

8.03 Members volunteering and authorized by the Chief to attend fire related courses shall be compensated for all expenses (tuition, lodging, meals, mileage, and other related expenses).

8.04 Anyone attending a local seminar will be entitled to travel time from the City of Lakewood to said location. Local is defined as within a fifty (50) mile radius of the City of Lakewood, which includes the City of Akron.

8.05 Tuition Reimbursement.

A. Upon successful completion of the basic probationary period, members may take accredited college courses with the approval of the Chief of Fire. The City shall reimburse such member the full tuition expense provided the member receives a grade "C" or the equivalent at the completion of each course. If the member leaves the department within four (4) years of such reimbursement, the member shall have the full amount of tuition reimbursement deducted from his final payout or make full reimbursement to the City.

8.06 For purposes of this clause, a week commences on Sunday and ends on Saturday. Members who are attending a five (5) day seminar, Monday through Friday, will be permitted the calendar day before and the calendar day after as off time. Members who are attending any other approved, non-local educational course shall receive eight (8) hours off plus travel time the day before. Upon completion of the training, the member will report to their next regularly scheduled tour of duty.

8.07 Training Comp Bank

- A. Training comp time bank is capped at 150 hours and is accumulated at an hour for hour basis.
- B. Training comp time hours can be earned only by attending training off duty on a voluntary basis.
- C. Off duty training credited to the training comp time bank must have prior approval of the Fire Chief or Training officer.
- D. Requests for off duty training to be credited to the training comp time bank will be submitted to the Assistant Chief in charge of training and forwarded to the Fire Chief for approval.

- E. Approved off duty training will be credited to the training comp time bank only. Hours in the training comp time bank and the regular comp time bank are separate and distinct and cannot be transferred from one bank to another.
- F. The most current General Order for the use of comp time will be applied when granting comp time from the training comp time bank.
- G. The training comp time bank has no cash value and may only be granted for time off that does not cause overtime.
- H. The training comp time bank program will be re-evaluated annually.

ARTICLE 9 SENIORITY

9.01 A current seniority list shall be maintained at all times and shall govern the following:

- A. Vacation and holiday selections among the unpromoted ranks will be selected on the basis of seniority of the original appointment date. Promoted members will use rank and seniority in rank as the criteria for the selection.
 - B. Compensatory time off shall be granted on the basis of seniority of the original appointment date provided the request for time off is made more than one (1) scheduled shift in advance of the actual beginning of the compensatory time period. If the request is made one (1) scheduled shift or less before the beginning of the compensatory time period, time off shall be granted on the basis of first-come, first-served, with the first member requesting a specific period being granted the same.
 - C. Seniority shall be broken when a member (a) quits or resigns, (b) is discharged, (c) is laid off for more than two (2) years, (d) fails to report for work when recalled from layoff within seven (7) days from the date on which the member receives notice of recall by certified mail. (It is the member's obligation to notify the City of any change of address. The City shall forward notice required by this section to the last address supplied by the member.)
- 9.02 In the event of a reduction in force, the members with the greatest seniority shall be retained provided, however, at all times there shall be at least three (3) officers on duty regardless of seniority. Members shall be recalled by order of greater seniority.
- 9.03 Years of service for purposes of promotion shall be defined as years of service only with the Lakewood Division of Fire.

ARTICLE 10 POSTING OF NOTICES

10.01 Within ten (10) days of a company assignment opening at Station 2 or Station 3, or an opening at Station 1 for the promoted ranks, Truck Company 1, and Car 2 driver, which becomes available as a result of resignation, retirement, transfer or detailed reassignment as Assistant Mechanic or Fire Inspector, the City shall post a notice of said vacancy at each Station for ten (10) consecutive days. Stations shall be staffed as follows:

<u>Station 1</u>	<u>Station 2</u>	<u>Station 3</u>
12 employees assigned 1 of which is car 2 driver	8 employees assigned	8 employees assigned

10.02 Members who wish to be considered for the assignment shall file a written request with the Assistant Chief no later than the end of the posting period. All applications timely filed will be reviewed by the Chief and considered for filling the assignment. Department needs, in terms of balancing the experience, abilities and skill of the members within each fire fighting company will govern the selection for the assignment. If more than one (1) application fits the department's needs for that assignment, then seniority will determine the selection. The posting of notices will end when (5) business days following the posting and the vacancy filled. The posting of notices exists in a company no member requests to fill said vacancy. In the event a resultant vacancy exists in a company assignment other than Truck Company 1 after the posting period, the City may, at its option, fill said vacancy by reassignment of a Truck Company 1 member or unassigned member without requiring further posting.

10.03 In the event a member is forced to take a posted position without applying for it, he will be able to leave said position when any member on the same shift completes his two year probation. The member completing his probation shall be assigned to the position. This position shall also be reposted at 6 month intervals.

10.04 Members who request and are approved for transfer to a different shift must reselect vacation and holiday time from the remaining time available on the new shift, in accordance with department rules and regulations. Members who are transferred by department mandate, without their request, to a different shift may retain vacation and holiday time previously selected or may reselect from the remaining time available on the new shift, in accordance with department rules and regulations.

ARTICLE 11 LEAVES OF ABSENCE

11.01 Funeral Leave.

- A. If a death occurs within the member's family, the member shall be granted funeral leave, without loss of pay, benefits, holidays or vacation time, in accordance with the following schedule: (Calendar days off taken must be consecutive and include the day of the funeral.)

1. Spouse, son, daughter, step-children
mother, father, step-parents, mother-in-law,
father-in-law 10 days

2. Brother, sister, son-in-law, daughter-in-law,
grandparents, grandparents-in-law,
grandson/daughter, brother or
sister-in-law, parent of minor child 5 days

- B. Funeral leave may be extended at the discretion of the Chief of Fire, based on individual circumstances. Such extra time will be utilized out of the member's paid leave accounts, including holiday, compensatory time, sick leave and vacation.

11.02 Emergency Leave.

- A. In the case of sudden or serious illness or emergency in the member's immediate family which renders the employee physically unable to report to work, after exhausting every effort to do so due to extraordinary circumstances, the member may be granted sufficient time Chief of Fire or the designated representative, the member may be granted sufficient time and off out of his accounts including training time, holiday, vacation, compensatory time and sick time, to aid the family and to complete any urgent business concerning the emergency. Upon completion of said emergency, the member shall immediately return to duty. Final authorization for the absence, and time granted from those accounts, is conditioned upon the employee providing the City with acceptable verification of such absence. In the event a member is denied emergency leave, said member shall have the right to appeal that decision directly to the Chief of Fire.

11.03 Jury Duty and Court Leave.

- A. A member called for jury duty or subpoenaed as a witness shall be granted a leave of absence for the period of jury or witness service and will be compensated for the work absences necessarily caused by the jury duty or witness duty. To be eligible for such pay, a member must present verification of the call in jury duty or witness duty.
- B. A member called for jury duty shall be granted a leave of absence for the period of jury service beginning twelve (12) hours prior to the starting time of the notice to report. Upon completion of the jury duty, the member will report to their next regularly scheduled tour of duty.

11.04 Military Leave.

- A. A member shall be granted a leave of absence for military duty in accordance with state and federal law.

- B. Any member who is temporarily ordered to active duty for training shall receive their regular wages for a period not to exceed thirty (31) days in any calendar year, providing the member reimburses the City the total amount of military wages received less taxes.

11.05 Leaves of Absence Without Pay.

- A. Leaves of absence without pay or other fringe benefits may be granted in accordance with Civil Service Rules and Regulations.

ARTICLE 12
SICK TIME AND PREGNANCY LEAVE POLICY

12.01 Members of the Division of Fire who are sick or injured and unable to report for duty, or whose immediate family member (spouse and children) is sick or injured requiring the employee's absence, shall report said sickness or injury, together with the reasons, to the Assistant Chief at least one (1) hour prior to the start of the member's scheduled shift. The Assistant Chief shall in turn notify the Chief of Fire.

12.02 For any leave which qualifies under the Family and Medical Leave Act ("FMLA"), members of the Division of Fire may use sick time. Employees must apply for FMLA leave for any FMLA-qualifying event. Employees must use sick time and other paid time off during FMLA leaves except for injuries which qualify under §12.08.

12.03 When a member reports sick due to a non-work related illness, upon return to work, the member must report to the Assistant Chief and complete the Certificate of Illness or Injury form that is to be retained at the Division of Fire. If the member is injured or sick from work more than seven (7) consecutive calendar days, has undergone an operation or told to have one, suffered an injury (including non-work related) which affects or could affect the member's mobility, physical agility or ability to perform their job duties in any way, or contracted any contagious illness which could be transmitted in close living quarters or in the course of their job duties, the member must complete a Certificate of Illness or Injury form and have their physician complete the Attending Physician's Statement or attach a statement from their physician to the certificate giving a diagnosis/prognosis, indicating that the member is able to return to regular or temporary light duties.

Unless specifically stated otherwise by the proper medical authority, all days off stipulated by the attending physician as a result of injury or illness are construed to be consecutive calendar days. These documents shall be submitted to the Department of Human Resources, prior to the day the member returns to work. Whenever a member is absent due to illness or injury, that member will secure permission from the Chief of the Division of Fire before leaving the area, except to see a physician.

12.04 The City has a right to review the member's physical and mental status at any time during a member's absence to determine whether the member is actually sick or injured, or the member has the ability to return to work. The City may have the member examined by a physician, paid by the City, to determine whether the member is actually sick or injured. If authorized by proper medical authority,

the City may call a member who is injured on the job to perform temporary light duties, providing that work is available and that the member has the skill and ability to perform the work. Members who are absent due to a non-duty related sickness or injury may request a temporary light duty assignment. Providing temporary light duty assignment is available, as determined by the Chief, and providing the member possesses the skill, ability and physical stamina to perform the duties required and provides written authorization to perform specific duties from their attending physician, the member may be given consideration for such an assignment. Any member on light duty who is working forty (40) hours per week will have any holiday time taken off equal to eight (8) hours. In the event a member is unable to return to assume full duties as a firefighter for a period in excess of six (6) months, the member shall be required to submit to the Human Resources Director a diagnosis and prognosis of the member's condition, stating whether the member will or will not be able to resume the full duties of firefighter. Each situation will be reviewed on a case-by-case basis in accordance with the ADA and ADAAA.

12.05 Should it be determined by proper medical authority that a member will not be able to return to regular full duties as a firefighter, the City has the right to require that member to apply for disability retirement. In the event of a difference of opinion as to the member's mental or physical status, regarding their ability to perform their regular duties, between the member's physician and the City's physician, the issue shall be submitted to a third physician specializing in occupational medicine, whose decision shall be final and binding. Fees and expenses of the physician shall be borne equally by the parties. For purposes of this section, an injury is defined as a traumatic damage to the body, of external origin, unexpected and undesigned by the injured person. The aforementioned language is designed to comply with the American Disability Act.

12.06 A member who reports absent from assigned duties due to sickness or injury shall not be permitted to engage in any other outside employment during the period of their absence, nor may the member return to such outside employment until returning to assigned duties or receiving permission from the Assistant Chief. The Chief of the Division of Fire shall take such steps as necessary to prevent the improper taking of sick leave.

12.07 Sick Time.

- A. One (1) sick time day, either earned, taken, used or converted, shall be considered to be a twenty four (24) hour period, unless the member is scheduled to work for a period less than twenty four (24) hours. In such case, the sick time shall be equal to the scheduled hours and no members shall be charged for sick time on days which the member is not scheduled for duty.

- B. All members shall earn sick time at the rate of 4.6 hours for every eighty (80) hours actually worked exclusive of trades, and may accumulate such sick time to two thousand four hundred (2400) hours.

12.08 Duty Exemption.

- A. No member shall be charged for sick time or time off against their accumulated sick time for any time taken, as a result of an injury or illness incurred while in the lawful

performance of their duties while fighting fires or other related duty activities. For purposes of this section, an injury is defined as a traumatic damage to the body, of external origin, unexpected and undesignated by the injured person. Members must apply for FMLA for work related injuries or illnesses lasting more than 2 working days (2 tours) or requiring an overnight hospitalization.

12.09 Retirement and Death Conversion.

- A. When a member retires, resigns or dies from the Division of Fire, either through service or disability, and shall have completed ten (10) years of service in the Division, the member, or the estate, shall be compensated in cash, based upon the daily earning rate at the time of retirement, resignation or death, for one-quarter (1/4) of their unused sick time which they shall have accumulated. However, in no event, shall the accumulated sick time for conversion purposes exceed two thousand four hundred (2400) hours.

12.10 Conversion of Sick Time Over One Thousand Five Hundred (1500) Hours.

- A. All members who have accumulated more than one thousand five hundred (1500) hours of sick time may convert, on a three (3) to one (1) basis, all hours accumulated in the calendar year over one thousand five hundred (1500) into a lump sum cash payment in January of each calendar year.

ARTICLE 13 PERFECT ATTENDANCE

13.01 All full-time members who complete one-quarter (1/4) of a year with perfect attendance from January 1st to March 31st, April 1st to June 30th, July 1st to September 30th, October 1st to December 31st, take no sick time for any reason whatsoever, excluding time off as a direct result of an on-the-job injury, lasting no more than four (4) twenty-four (24) hour shifts or seven (7) eight-hour shifts (consecutive or intermittent) for each separate and distinct injury, shall be entitled to receive a direct cash payment (included in their regular paycheck) or compensatory time for fifteen (15) hours in the following calendar quarter, according to their hourly rate. The Fire Marshal shall receive payment equal to that received by the Fire Captain. The Fire Inspector shall receive payment equal to that received by the Assistant Mechanic. However, employees who take time off as a result of a serious injury suffered while fighting a fire shall maintain eligibility during the initial eighteen (18) month period of treatment for each separate and distinct serious injury.

13.02 All full-time members covered under this contract who complete one (1) year (January 1st through December 31st) with one (1) or less days absent for any reason whatsoever (excluding time off as a direct result of an on-the-job injury lasting no more than four (4) twenty-four (24) hour shifts or seven (7) eight-hour shifts (consecutive or intermittent) for each separate and distinct injury, shall be entitled to one (1) hour off during the following year. Members retiring on December 31st who would be entitled to one (1) holiday off the next following year, shall be permitted to convert said holiday to cash at their current hourly rate in effect on December 31st. Members working a forty (40) hour work week shall be entitled to one (1) eight (8) hour holiday. However, employees who take time off as a

result of a serious injury suffered while fighting a fire shall maintain eligibility during the initial eighteen (18) month period of treatment for each separate and distinct serious injury.

13.03 Employees hired after April 6, 2010 are not eligible for the perfect attendance bonus.

ARTICLE 14 VACATIONS

14.01 Personnel.

- A. Members who have completed one (1) or more years of service as of June 1st shall earn vacation time according to the following schedule:

<u>Years of Service</u>	<u>Vacation Tours</u>	<u>Must Take Annually</u>
1 through 6	6	2
7 through 12	9	3
13 through 18	12	4
19+	15	5

- B. A vacation tour is defined as one (1) twenty four (24) hour scheduled tour of duty. Members are considered to be on vacation forty eight (48) hours prior to and after scheduled vacation and holiday tours, including FLSA days when used in conjunction with vacation and holiday.

- C. As shown above, all members must select one-third (1/3) of the vacation time earned during the previous calendar year. Members retiring during the calendar year are exempt from this provision.

14.02 Members Working a Forty (40) Hour Per Week Schedule.

- A. Members working a forty (40) hour per week schedule will earn vacation according to the following schedule:

<u>Years of Service</u>	<u>Vacation Hours</u>	<u>Must Take Annually</u>
1 through 6	2 50-hour weeks	32 hours
7 through 12	3 50-hour weeks	48 hours
13 through 18	4 50-hour weeks	64 hours
19+	5 50-hour weeks	80 hours

- B. As shown above, all members must select approximately one-third (1/3) of the vacation time earned during the previous calendar year. Members retiring during the calendar year are exempt from this provision.

14.03 Accumulation.

- A. All members hired prior to January 1, 2014 may accumulate up to, but not exceed, twenty-two (22) vacation hours (528 hours). All members hired on or after January 1, 2014 may accumulate, but not exceed, twenty (20) vacation hours (480 hours).
- B. Accrued vacation time in excess of accumulation permitted in Paragraph A, which is carried over to the next calendar year, shall be forfeited.

14.04 For all members, in the event an extraordinary emergency or extraordinary circumstances which, upon approval of the Chief of Fire, necessitates the abandonment of vacation or holiday leave, that leave shall be taken later that year if time is available. If it is determined by the City that time is not available, then such time may be carried over to the next calendar year and must be taken in that year. Under no circumstances will the exercise of this provision allow for any conversion of accumulated vacation time in excess of the amounts set forth in this Agreement. Accrued time in the vacation account of each member shall be paid at the rate of one-fifty second (1/52nd) of their current salary for each week, twenty four (24) times their current hourly rate for each hour, and the appropriate percentage of twenty four (24) times their current hourly rate for each partial hour, up to a maximum of forty seven (47) vacation hours (1128 hours), at the time of the member's retirement, termination or resignation, or to their estate, in case of the death of the member.

14.05 Random Selection.

Following the general selection procedure, as outlined in the current department general orders, all remaining vacation time and individual holiday time will be granted on a first-come, first-served basis if one (1) or more of the vacation, "K" day or holiday selection slots are available.

14.06 For purposes of this section, the term "member" shall be defined to include members of the bargaining unit.

- A. Three (3) members shall be permitted to select vacations or holiday time off each day pursuant to current Division of Fire rules and regulations governing same.
- B. If an officer's position is left vacant for more than three (3) months which includes an absence of three (3) or more months for any reason, the following shall govern. If the officer levels are at the minimum of three (3) with no officer presently on vacation time or holiday time off, and there is at least one (1) slot available, one (1) officer may select vacation time or holiday time off.
- C. Employees who are not shift personnel assigned to emergency fire or medical response shall not adversely impact the vacation selections for those employees who are so assigned.
- 14.07 Vacation selection for the entire year will begin no later than November 15, unless mutually agreed upon, in writing, by both Local #382 and the City of Lakewood.

**ARTICLE 15
HOLIDAYS**

15.01 Members of the Division of Fire shall be granted eleven (11) holidays to include New Year's Day, President's Day, Good Friday, Easter, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, Martin Luther King Jr. Day, plus one (1) twenty four (24) hour off-duty period classified as a personal business day, provided the member works a full year in which the holidays occur. These holidays shall be granted in the form of six (6) twenty four (24) hour off-duty periods to compensate members for holidays actually worked. These twenty four (24) hour off-duty holidays may be divided, upon request, into two (2) twelve (12) hour half holidays. All holiday off-duty periods shall be selected in accordance with the seniority plan.

15.02 The personal business day may be selected in one (1) period, or may be divided into lesser off-duty periods, but may not be taken in increments of less than one-half (1/2) hour.

15.03 Members working a forty (40) hour week will, whenever possible, be granted the actual holiday off-duty. However, any member required to work on a holiday shall be granted, at a later time, an eight (8) hour off-duty period.

15.04 Members may forward a written request no later than December 15th to the Chief for payment or conversion to compensatory time of up to one hundred forty four (144) holiday hours in lieu of time off. Payment for said hours shall be received in January.

15.05 Members scheduled to work the actual holiday, excluding the member's personal day, shall receive a premium pay of one and one-half (1-1/2) their regular rate of pay for that day for all hours worked.

15.06 All members accumulating in excess of fourteen (14) twenty four (24) hour holidays shall forfeit all time in excess of fourteen (14) twenty four (24) hour holidays. Accrued time in the holiday account of each member shall be paid at the current hourly rate of the member upon retirement, termination or resignation, or to the estate in case of the member's death.

15.07 Members required to work overtime on New Year's Day, Easter, Thanksgiving and Christmas shall be paid at the rate of two (2) times their basic wage.

**ARTICLE 16
MEDICAL COVERAGE AND INSURANCE**

16.01 The City agrees to provide for full-time members and their dependents a choice of health care plans, provided the City may change either carriers or delivery systems if the benefits and provider networks are comparable or better than the present plan. The City shall not offer less than two (2) plans, a PPO and HMO selected by the City. The City shall not be required to pay any premium to an HMO in excess of the annual monthly costs for the PPO.

16.02 Effective January 1, 2017, for employees electing coverage under the 90/10 Plan, monthly employee premium contributions shall be ten percent (10%) for family coverage and thirteen percent (13%) for single coverage, based on COBRA rates (medical and prescription drug), with a cap of \$180.00 per month for family and \$125.00 per month for single in 2017 and 2018. The rates for 2019 will remain as a resopner to this contract. The City shall pay the remaining cost of the plan premium or expected costs of such medical and prescription drug plan. The member contribution shall be withheld via payroll deduction not later than the first pay period each month.

16.03 The City retains the right to eliminate the 100% Plan and/or set the premium contributions if it chooses to offer such a plan.

16.04 The 90/10 and 100% Summary of Benefits and Coverage for 2014, including prescription drug coverage, as well as a chart of approved plan design changes to be effective during the life of this contract are attached hereto as Appendix C.

16.05 The Employer shall establish an Insurance Committee of one (1) to three (3) representatives from each of the City's bargaining units, if they choose to be represented and a minimum of one (1) representative of the Employer. The Committee shall meet at least once a month for the purpose of exploring cost saving measures and/or alternative health plans. The Committee shall make recommendations regarding health care coverage and such recommendations shall be presented to each bargaining unit as well as to the City Administration. This Committee shall be administered pursuant to Appendix F, attached hereto.

16.06 Life Insurance.

A. The City shall provide a policy of life insurance in the amount of \$25,000.00 to every member of the Division of Fire who shall have the right to convert said policy at the rates established by the insurance carrier upon the member's termination. The insurance shall be written by a recognized insurance carrier and all premium costs shall be borne by the City.

16.07 Liability Insurance.

A. Subject to the limits of the policy, whenever a member is on duty, insurance coverage shall be provided when said member of the Division of Fire is operating any city owned vehicle in the performance of assigned duties to protect the member fully against any and all claims arising out of the authorized operation of said city vehicle. This insurance must cover all claims for property damage and personal injury, and shall be the sole responsibility of the City to provide and maintain. Additionally, the City will provide full legal defense to any member in any legal action arising out of the authorized operation of said city vehicle.

16.08 Surviving Spouse Benefit

A. The City shall provide an Accidental Death and Dismemberment (AD&D) Insurance Policy for all bargaining unit members in the amount of \$125,000.00. In the event an employee is killed in the line of duty and the above-referenced AD&D policy does not apply, then the surviving spouse or estate of said employee shall be compensated in the amount of \$125,000.00. This benefit shall be paid in three (3) equal installments over the course of three (3) years.

ARTICLE 17 DISCRIMINATION

17.01 The City agrees not to discriminate against any member because of activity in behalf of, or membership in, or lack of membership in the Association. The City and the Association further agree that there shall be no discrimination against any member because of race, sex, creed, religion, national origin, disability, gender identity/expression, genetic information, military status, veteran status, sexual orientation, union membership or activity, or ancestry.

ARTICLE 18 DISCIPLINE

18.01 In all cases where written and formal charges have been placed against members which could result in reprimand, loss of off-duty time, suspension, fine or punishment of any kind, the member shall receive from the Chief of Fire copies of the exact charges filed. In the case of company discipline, a member may request their immediate supervisor to furnish written and formal charges. To the extent practical, a hearing shall be held no less than seven (7) days and not later than fourteen (14) days after the issuance of the charge.

18.02 At the request of the member, the Association may provide appropriate defense for the member during any hearing of said charges.

18.03 A member against whom disciplinary charges have been placed shall, at their option, be allowed to call witnesses to testify at the hearing. The Chief of Fire will give their testimony full consideration when arriving at the findings.

18.04 The Chief of Fire shall issue a decision on the findings within ten (10) days of the hearing and will supply copies of the decision to the member against whom the charges were placed and to the Association. On any discipline involving a suspension the date of the suspension shall be specified in the letter.

18.05 All findings resulting from disciplinary charges shall be appealable under the grievance procedure (Article 19), beginning with Step III of said procedures.

18.06 The time limits set forth in this article may be modified by mutual, written agreement of the City and the Association.

ARTICLE 19 GRIEVANCE PROCEDURE

19.01 It is mutually understood that the prompt presentation, adjustment and/or answering of grievances is desirable in the interest of sound relations between the members and the City. The prompt and fair disposition of grievances involves important and equal obligations and responsibilities, both joint and independent, on the part of the representatives of each party to protect and preserve the grievance procedure as an orderly means of resolving grievances. Actions by the City or the Association which tend to impair or weaken the grievance procedure are improper.

19.02 A grievance is a dispute or difference between the City and the Association, or between the City and a member, concerning the interpretation, and/or application of, and/or compliance with any provision of the Agreement, including all disciplinary actions, and when any such grievances arise, the following procedure shall be observed.

Step I. A member who has a grievance shall reduce it to writing, sign and submit it to the Chief of Fire, within seven (7) days after the member has knowledge of the event upon which the grievance is based. Within seven (7) days of receiving the grievance, the Chief of Fire shall meet with the grievant and Association representatives in an attempt to adjust the grievance. Within seven (7) days after the Step I meeting, the Chief of Fire will supply a written answer to the grievant and to the Association.

Step II. If the member's grievance is not satisfactorily settled at Step I, the Association may appeal the grievance to the Mayor within seven (7) days after the receipt of the Step I answer. After receipt of the appeal, the Mayor, or a designated representative, and Association representatives shall meet to consider the grievance at a time mutually convenient to all parties, but in no event shall such a meeting commence later than fourteen (14) days after the appeal of the Step I response. The grievant or grievants may or may not be present at this meeting. Within seven (7) days of the Step II meeting, the Mayor, or a designated representative, shall furnish the Association a decision in writing.

Step III. If the grievance is not satisfactorily settled at Step II, the Association may, within thirty (30) calendar days after receipt of the Step II answer, submit the matter to arbitration. The Association shall notify the American Arbitration Association and the City simultaneously of its intent to appeal the grievance to arbitration. Upon written notice of the Association's intent to arbitrate a grievance, the American Arbitration Association shall submit a panel of seven (7) arbitrators to each party, and the arbitrators will be chosen in accordance with the Association's then applicable rules and regulations. The fees and expenses of the arbitrators shall be borne equally by the parties. Arbitration hearing shall be held in the City of Lakewood, on City property.

19.03 The Association may select up to two (2) members to attend the hearing (including officers and witnesses) who shall not lose any regular straight time pay for the time off the job while attending any arbitration proceeding

19.04 In the event a grievance goes to arbitration, the arbitrator shall have jurisdiction only over disputes arising out of grievances and, in reaching a decision, the arbitrator shall have no authority to add to or subtract from or modify, in any way, the provisions of this Agreement.

19.05 The grievance procedure set forth herein shall be the exclusive method of reviewing and settling disputes between the City and the Association, and/or between the City and member(s). All decisions of arbitrators and all pre-arbitration grievance settlements reached by the Association and the City shall be final, conclusive and binding on the City, the Association and the members. A grievance may be withdrawn by the Association at any time during Step I, II, or III of the grievance procedure, and the withdrawal of any grievance shall not be prejudicial to the positions taken by the parties as they related to that grievance or any other grievance.

19.06 Time limits set forth in a grievance procedure shall, unless extended by mutual written agreement of the City and the Association, be binding on both parties. In the event the Union fails to file initially or appeal a grievance to the next step within the time limits provided, such grievance shall be deemed null and void. In the event the City fails to answer the grievance within the time limits provided, the grievance shall automatically be moved to the next step. Working days, as provided in the grievance procedure, shall not include Saturdays, Sundays or holidays. It is understood that there shall be written acknowledgment noting the time and date the Association and the City have received the grievance in each respective step during the grievance procedure. All withdrawals of grievances by the Association shall be in writing with a copy being sent to the Chief, Division of Fire, and the Director of Human Resources.

ARTICLE 20 MANAGEMENT RIGHTS

20.01 Except as specified otherwise in this Agreement, the City has the right and responsibility to: Determine matters of inherent managerial rights, which include, but are not limited to, areas of discretion or policy, such as the functions and programs of the City, standards or services, its overall budget, utilization of technology and organizational structure; direct, supervise, evaluate and hire members; maintain and improve the efficiency and effectiveness of the City's operations, including the right to reorganize, discontinue, or enlarge any work; manage the operations and determine the overall discipline, or discharge for just cause, or layoff, transfer (including the assignment and allocation of work) within the division; assign, schedule, promote or retain members; determine the adequacy of and direct the work force; determine the overall mission of the City as a unit of government, effectively manage and direct the work force and actions to carry out the mission of the City as a governmental unit; control the premises and facilities and determine the number and location of facilities; promulgate and enforce reasonable employment rules and regulations; introduce new and/or improved equipment, methods and/or facilities; determine the size, duties and work methods of the work force; determine the number of shifts required and work schedules; establish, modify, consolidate or abolish jobs (or classifications); determine the manner in which the work is to be processed; and determine staffing patterns, including, but not limited to, assignment of members, numbers employed, duties to be performed, qualifications required and areas worked.

20.02 The foregoing are subject to the restrictions and regulations governing the exercise of these rights as are expressly provided herein.

ARTICLE 21 NO STRIKE/NO LOCKOUT

21.01 The Association shall not, directly or indirectly, call, sanction, encourage, finance, and/or assist, in any way, nor shall any member instigate or participate, directly or indirectly, in any strike, slowdown, job action, walkout, concerted "sick" leave, work stoppage, unlawful picketing, or interference of any kind at any operation or operations of the City.

21.02 Any member(s) who violates Section 21.01 of this article shall be subject to discharge or other disciplinary action at the complete discretion of the City, subject to appeal to the Civil Service Commission and the courts of law or the grievance procedure.

21.03 The City shall not lock out any member for the duration of this Agreement.

ARTICLE 22 UNION RIGHTS

22.01 The City agrees that during working hours, on City owned premises, and without loss of time or compensation, Association officers, or their designated representatives, shall be permitted to:

- A. Post Association notices.
- B. Transmit communications, authorized by the Association or its officers, to the City or its representatives in the Division of Fire.

22.02 Meetings held for the purposes of negotiating agreements, or for the processing of grievances, will be scheduled at a time mutually convenient to all parties. Association officers, or their designated representatives, shall be permitted to attend these meetings and will not suffer any loss of time or compensation if these meetings occur during working hours. Association officers required to attend other official hearings or meetings by the City, on City premises, will not suffer any loss of time or compensation if the hearing or meeting occurs during working hours.

22.03 The Association may conduct Union meetings on a quarterly basis, on City property, provided the meetings shall be scheduled and conducted so as not to interfere with the effective operation of the division. When the Association holds a meeting off City property in the City of Lakewood, one (1) officer of the Association, who is working at the time the meeting is held, may attend the meeting without suffering any loss of time or compensation, provided that the officer's absence does not result in the division being inadequately manned, and that the officer will respond immediately, if called at the Association meeting, to return to work.

22.04 A Labor/Management Committee consisting of the Mayor, or a designated representative, and the Chief of Fire, or a designated representative, and President of the Association, plus one (1) member of each shift and one (1) officer representative, shall be established, and this committee shall meet every three (3) months for the purpose of discussing and attempting to resolve any work related problems.

ARTICLE 23 RESIDENCY REQUIREMENTS

23.01 The residency requirements for members of the Division of Fire, established pursuant to rulings made in the United States District Court for the Northern District of Ohio Eastern Division (Civil Action Number C87-287) and Codified Ordinance, Section 149.171, are no longer binding. Therefore, the residency requirement will not be imposed upon any current members of the bargaining unit.

ARTICLE 24 PROTECTION OF PERSONAL PROPERTY

24.01 Each member shall be assigned their own personal lockers. These lockers shall be the sole personal responsibility, and no other person shall be permitted access to such lockers, except upon written authority of the member to whom the locker is assigned. The Chief of Fire shall have the right to order a member to open their locker for inspection in the Chief's presence. A member required to perform their duties in stations other than their regularly assigned station will be provided with lockers for the protection of their personal property.

ARTICLE 25 SEVERABILITY

25.01 If any provision of the Agreement, or the application of such provision, should be rendered or declared invalid by any final court action or by reason of any existing, amended or subsequently enacted legislation, the remaining parts or portion of the Agreement shall remain in full force and effect, and shall be otherwise affected by any of the above-named actions.

ARTICLE 26 PREVAILING RIGHTS

26.01 All rights and working conditions enjoyed by the members at the present time, such as firehouse supplies (soap, toilet paper, light bulbs, etc.), firehouse tools (lawn mowers, tools for minor repairs), firehouse linens, firehouse utilities (heat, light, water) and other similar benefits of the job, which are not included in this Agreement, shall remain in full force.

26.02 For the term of this Agreement, the City shall not diminish the benefits enumerated above.

26.03 A member of the Division of Fire shall have the opportunity to examine their own individual personnel file once every six (6) months. In order for a member to have access to their personnel file, the member must give the Director of Human Resources one (1) day notice of their request, and the actual examination must be in the presence of the Director of Human Resources, or designee, Monday through Friday, during normal working hours.

26.04 Trading Time.

A. A member may trade time if the change does not interfere with the operation of the Division of Fire. Trading of four (4) hours or less must have the approval of the member's immediate supervisor. All other trades must have the approval of the Assistant Chief. All trades are limited to members of the same rank.

26.05 The City shall be responsible for all permit work involving repair of buildings, plumbing, electric, HVAC, or any work beyond the routine daily care and up keep of such buildings or grounds.

**ARTICLE 27
AGREEMENT SUPERSEDES**

27.01 Any City ordinance, Division of Fire rules, regulations, general and special orders, Civil Service regulations and verbal orders that directly conflict with express terms of this Agreement shall be superseded by this Agreement.

**ARTICLE 28
OBLIGATION TO NEGOTIATE**

28.01 The City and the Association acknowledge that during negotiations, which preceded this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining negotiations and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

28.02 Therefore, for the life of this Agreement, the City and the Association each voluntarily and unilaterally waive the rights, and each agrees that the other shall not be obligated to negotiate collectively with respect to any subject or matter referred to or covered in this Agreement.

**ARTICLE 29
SAFETY COMMITTEE**

29.01 There shall be one joint Safety Committee in the City of Lakewood, Division of Fire, composed of two (2) members selected by the Association, and one (1) member selected by Lakewood Paramedics Association and two (2) members selected by the Fire Chief. At least one member of the

Safety Committee shall be an officer. Minutes of meetings shall be maintained by the Committee and forwarded to the Fire Chief.

29.02 The Safety Committee shall meet quarterly, or more or less often by mutual consent, and such meetings shall be scheduled at the time established by the Chief of the Division of Fire, Fire Marshal or designee, who shall preside at all meetings.

29.03 The purpose of these meetings will be to discuss problems and objectives of mutual concern, concerning safety and health conditions of the Division of Fire.

**ARTICLE 30
PRIOR SERVICE CREDIT**

30.01 Effective July 5, 1987, the City shall permit any member hired prior to July 5, 1989, who has formerly been employed as a full-time, permanent member by any legitimate governmental subdivision, local, county or state, to carry over such previous service for the purpose of vacation selection. Such member's vacation will be determined by adding the combined length of service the member has with the City of Lakewood and any other governmental body. This provision shall not cover new members hired under this Agreement.

**ARTICLE 31
UNION LEAVES**

31.01 The President and/or designee shall be permitted to attend conferences up to 10 tours per year, combined, without loss of compensation (i.e., both members attending the same conference will constitute two tours of the available 10 tours for the year). The President, or designee, shall be permitted to attend Ohio Association of Professional Firefighters meetings, subject to manning requirements.

**ARTICLE 32
PROBATIONARY MEMBERS**

32.01 New, full-time members shall be considered to be on probationary period for two (2) years and, during such probationary period, the City shall have sole discretion to discharge such members without recourse through the grievance procedure or appeal to any Civil Service Commission, provided that the Union may represent the member at any disciplinary hearing. The City shall provide advance notification to the Union of any such disciplinary hearing.

32.02 Members promoted to any rank above Firefighter Grade I will be in a probationary period for one (1) calendar year.

32.03 All entry-level probationary members will undergo training, evaluation, testing and a board review to determine suitability for a permanent position.

32.04 A probationary period may be extended for members who are absent for more than ten (10) tours for a period equal to their total time of absence.

32.05 Entry level, probationary members will be assigned to work five (5) eight (8) hour days during their first two calendar weeks of employment for orientation training.

32.06 Probationary members are ineligible for consideration under Article 10, Posting of Notices.

32.07 All members shall provide the Fire Chief with the names, addresses and telephone numbers of all off-duty employers.

ARTICLE 33 DURATION OF AGREEMENT

33.01 This Agreement shall be effective as of January 1, 2017, and shall remain in full force and effect until the 31st day of December, 2019. It shall automatically be renewed from year to year thereafter, unless either party shall have notified the other, in writing, on or before September 15th before the anniversary date, that it desires to terminate, modify or amend the Agreement, and negotiations shall then commence no later than October 15th.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands the ____ day of _____, 2017.

LAKEWOOD ASSOCIATION OF FIREFIGHTERS,
LOCAL #382 OF THE INTERNATIONAL
ASSOCIATION OF FIREFIGHTERS, AFL-CIO

CITY OF LAKEWOOD

Seth Andregg, President

Michael Summers, Mayor

Charles Yurcich, Vice President

Scott Gilman, Fire Chief

Milan Tanasijevic, Secretary/Treasurer

Jean Yousef, Human Resources Director

APPROVED AS TO LEGAL
CORRECTNESS AND FORM

Kevin Butler, Law Director

APPENDIX A
MINIMUM STAFFING PER VEHICLE

A Company shall be defined as a group of Members:

1. Under the direct supervision of an officer;
2. Operating with one piece of fire apparatus;
3. Continuously operating together; and
4. Arriving at the incident scene on a fire apparatus.

Each Engine Company shall be staffed with a minimum of four (4) Firefighters:

1. (1) Captain or Acting Captain
2. (1) Driver/Operator
3. (2) Firefighters/Firefighters-EMTs/Firefighters-Ps

Truck 1 shall be staffed with a minimum of four (4) Firefighters

1. (1) Captain or Acting Captain
2. (1) Driver/Operator
3. (2) Firefighters/Firefighters-EMTs/Firefighters-Ps

Each Squad shall be staffed with a minimum of two (2) Emergency Medical Technicians, one of which must be qualified as an EMT-P

Car #2 shall be staffed with a minimum of two Firefighters:

1. (1) Assistant Chief or Acting Assistant Chief
2. (1) Driver/Staff Aide

APPENDIX B
WAGES

	2017		2018		2019	
	Annual Rate	Hourly Rate	Annual Rate	Hourly Rate	Annual Rate	Hourly Rate
Firefighter Grade III 1 st Year	\$50,914.00	\$19.43	\$51,932.28	\$19.82	\$52,970.93	\$20.21
2 nd Year	\$60,332.77	\$23.02	\$61,539.43	\$23.48	\$62,770.22	\$23.95
Firefighter Grade II 1 st Year	\$63,120.03	\$24.08	\$64,382.43	\$24.56	\$65,670.08	\$25.06
2 nd Year	\$65,905.11	\$25.15	\$67,223.21	\$25.65	\$68,567.67	\$26.16
Firefighter Grade I	\$68,724.06	\$26.22	\$70,098.54	26.75	\$71,500.51	\$27.28
Firefighter Grade I (22 years of Service)	\$70,786.64	\$27.01	\$72,202.37	\$27.55	\$73,646.42	\$28.10
Electrician/Mechanic and Fire Inspector	\$75,597.13	\$28.85	\$77,109.07	\$29.42	\$78,651.25	\$30.01
Captain/Fire Marshal	\$82,470.18	\$31.47	\$84,119.58	\$32.10	\$85,801.97	\$32.74
Assistant Fire Chief	\$94,840.16	\$36.19	\$96,736.96	\$36.91	\$98,671.70	\$37.65

APPENDIX C Medical Mutual of Ohio 100% Plan

City of Lakewood - Plan 1 PPO HI Plan 2017 Coverage Period: 01/01/2017 - 12/31/2017
Summary of Benefits and Coverage: What This Plan Covers & What It Costs Coverage for: Single or Family Plan Type: PPO

Important Information: This is only a summary. If you want more detail about your coverage and costs, you can get the complete details in the policy of this contract at [www.medicalmutual.com](#) or by calling 800.940.2883.

Important Questions	Answers	Why This Matters
What is the overall deductible?	\$1,500 for an individual, \$3,000 for a family. Deductibles are per person, per calendar year. Once you meet your deductible, we'll start paying for covered services. You'll pay only the coinsurance, copays and out-of-pocket maximums.	You must pay all the costs up to the deductible amount before the plan begins to pay for covered services you use. Check your policy or plan document to see when the deductible starts covering costs. You'll pay only the coinsurance, copays and out-of-pocket maximums.
Are there other deductible amounts?	No.	You don't have to meet deductibles for specific services, but see the chart starting on page 2 for other costs for services the plan covers.
Is there an out-of-pocket limit on my payments?	Yes, \$1,500 for an individual, \$3,000 for a family. Once you reach the out-of-pocket limit, we'll pay 100% for covered services. This limit helps you plan for future care expenses.	The out-of-pocket limit is the most you could pay during a coverage period (usually one year) for covered services. After you reach the out-of-pocket limit, we'll pay 100% for covered services. This limit helps you plan for future care expenses.
What is not included in the deductible limit?	Prescription, laboratory charges and health care the plan doesn't cover.	Even though you pay these expenses, they don't count toward the out-of-pocket limit.
Is there an overall annual limit on what the insurer pays?	No.	The chart starting on page 2 describes any limits on what the plan will pay for benefits covered under the plan.
Does this plan use a network of providers?	Yes. See Additional Coverage or Cost of Coverage sections for details on participating providers.	If you use an in-network provider to get health care services, the plan will pay more than if you use an out-of-network provider. You'll pay less for services provided by in-network providers. You'll pay more for services provided by out-of-network providers. You'll pay the most for services provided by out-of-network providers who are not participating providers.
Do I need a referral to see a specialist?	No.	You can see the specialist you choose without a referral from the plan.
Are there services this plan doesn't cover?	Yes.	Some of the services this plan doesn't cover are listed on page 5. See your policy or plan document for additional information about excluded services.

City of Lakewood - Plan 1 PPO HI Plan 2017 Coverage Period: 01/01/2017 - 12/31/2017
Summary of Benefits and Coverage: What This Plan Covers & What It Costs Coverage for: Single or Family Plan Type: PPO

Important Information: Deductibles are fixed dollar amounts (for example, \$1,500) you pay for covered health care services before we start paying for the services. For example, if the plan's deductible for an individual is \$1,500, you must pay the first \$1,500 of covered services. After you meet your deductible, we'll start paying for covered services. You'll pay only the coinsurance, copays and out-of-pocket maximums. This plan may encourage you to use in-network providers by offering you lower deductibles, copayments, coinsurance and out-of-pocket maximums.

Common Health Issues	What This Plan Covers & What It Costs	What This Plan Covers & What It Costs	What This Plan Covers & What It Costs
If you visit a health care provider's office as a patient	Primary care visit to treat an injury or illness: No charge after deductible. \$15 coinsurance. Specialist visit: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.	Emergency care: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.	Emergency care: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.
If you have a test	Primary care visit to treat an injury or illness: No charge after deductible. \$15 coinsurance. Specialist visit: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.	Emergency care: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.	Emergency care: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.

City of Lakewood - Plan 1 PPO HI Plan 2017 Coverage Period: 01/01/2017 - 12/31/2017
Summary of Benefits and Coverage: What This Plan Covers & What It Costs Coverage for: Single or Family Plan Type: PPO

Common Health Issues	What This Plan Covers & What It Costs	What This Plan Covers & What It Costs	What This Plan Covers & What It Costs
If you have outpatient surgery	Facility fee (e.g., ambulatory surgery center): No charge after deductible. \$15 coinsurance. Physician's fee: No charge after deductible. \$15 coinsurance. Anesthesia: No charge after deductible. \$15 coinsurance. Emergency medical transportation: No charge after deductible. \$15 coinsurance. Urgent care (e.g., urgent care center): No charge after deductible. \$15 coinsurance. Prescription charges (e.g., prescription): No charge after deductible. \$15 coinsurance.	Facility fee (e.g., ambulatory surgery center): No charge after deductible. \$15 coinsurance. Physician's fee: No charge after deductible. \$15 coinsurance. Anesthesia: No charge after deductible. \$15 coinsurance. Emergency medical transportation: No charge after deductible. \$15 coinsurance. Urgent care (e.g., urgent care center): No charge after deductible. \$15 coinsurance. Prescription charges (e.g., prescription): No charge after deductible. \$15 coinsurance.	Facility fee (e.g., ambulatory surgery center): No charge after deductible. \$15 coinsurance. Physician's fee: No charge after deductible. \$15 coinsurance. Anesthesia: No charge after deductible. \$15 coinsurance. Emergency medical transportation: No charge after deductible. \$15 coinsurance. Urgent care (e.g., urgent care center): No charge after deductible. \$15 coinsurance. Prescription charges (e.g., prescription): No charge after deductible. \$15 coinsurance.

Common Health Issues	What This Plan Covers & What It Costs	What This Plan Covers & What It Costs	What This Plan Covers & What It Costs
If you have a test	Primary care visit to treat an injury or illness: No charge after deductible. \$15 coinsurance. Specialist visit: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.	Emergency care: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.	Emergency care: No charge after deductible. \$15 coinsurance. Other provider's office visit: No charge after deductible. \$15 coinsurance.

City of Lakewood: Plan 1

Summary of Benefits and Coverage: What This Plan Covers & What It Costs

Coverage for: Single or Family | Plan Type: FPO

[illegible]

City of Lakewood: Plan 1

Summary of Benefits and Coverage: What This Plan Covers & What It Costs

Coverage Period: 01/01/2017 - 12/31/2017
Coverage for: Single or Family | Plan Type: PPO

Excluded Services & Other Covered Services

Services Your Plan Does NOT Cover (This isn't a complete list. Check your policy or plan document for other excluded services.)	Excluded Service (s)
• Cosmetic Surgery	• Routine Eye Care (Abilities)
• Experimental Treatments	• Routine Foot Care
• Dental (except for Chiropractic)	• Routine Fertility Programs
• Dental Care (Abilities)	• Weight Loss Programs
• Glasses	• Non-emergency care when traveling outside the U.S.

Other Covered Services (This isn't a complete list. Check your policy or plan document for other covered services and your costs for these services).

- Bariatric Surgery
- Chiropractic Care
- Private-Duty Nursing

Your Rights to Continue Coverage:

If you lose coverage under the plan, depending upon the circumstances, Federal and State laws may provide protections that allow you to keep health coverage. Any such rights may be limited in duration and will require you to pay a premium, which may be significantly higher than the premium you pay while covered under the plan. Other limitations on your rights to continue coverage may also apply.

For more information on your right to continue coverage, contact the plan at 800.540.2363. You may also contact your state insurance department, the U.S. Department of Labor, Employee Benefits Security Administration at 855.544.3272 or www.dhs.gov/ebsa, or the U.S. Department of Health and Human Services at 877.267.2223 X61550 or www.dhs.gov.

City of Lakewood: Plan 1

Summary of Benefits and Coverage: What This Plan Covers & What It Costs

Coverage Period: 01/01/2017 ~ 12/31/2017
Coverage for: Single or Family | Plan Type: FPO

Your Grievance and Appeal Rights:

If you have a complaint or are dissatisfied with a denial of coverage for China under your plan, you may be able to appeal or file a grievance. For questions about your rights, this policy, or assistance, you can contact the plan at 800.540.2593. You may also contact the Department of Labor's Employee Benefits Security Administration at 866.544.4559 (TDD) or www.dol.gov/ebsa/healthplan.

Does this Coverage Provide Minimum Essential Coverage?

The Affordable Care Act requires most people to have health care coverage that qualifies as "minimum essential coverage." This plan or policy does provide minimum essential coverage.

Does this Coverage Meet the Minimum Value Standard?

The Affordable Care Act establishes a minimum value standard of benefits of a health plan. The minimum value standard is 60% (actuarial value). This health coverage does meet the minimum value standard for the benefits it provides.

Medical Mutual of Ohio 90/10 Plan

CITY OF LAKEWOOD: Plan 2 – MMO LO Plan NON - AFSCME Only

2017
Coverage for: Single or Family / Plan Type: PPO

This is only a summary. I will want more detail about your coverage and costs, you can get the complete terms in the policy or plan document at www.medmutual.com, or by calling 800.232.2200.

Important Questions	Answers	Why This Matters
What is the deductible?	\$500/individual, \$1,000/family. Not a deductible for out-of-network services.	You must pay all the costs up to the deductible amount before the plan begins to pay for covered services you use. Check your policy for the deductible amount for the plan year. The deductible may vary for different types of services.
Are there other deductibles for specific services?	Yes, \$2,000/individual, \$4,000/family for out-of-network services.	You don't have to meet deductibles for specific services. But see the chart starting on page 2 for other costs for services not covered by the plan.
Is there an out-of-pocket limit on my expenses?	\$12,000/individual, \$24,000/family for in-network services.	The out-of-pocket limit is the most you could pay during a policy period (benefit year) for your share of the cost of covered services. This limit stops you from paying more than your expenses.
What is the maximum amount I can be held responsible for in a calendar year?	None.	Even though you pay these expenses, they don't count toward the out-of-pocket limit.
Is there an overall annual limit on what the plan must pay?	No.	The plan doesn't have a limit on the amount it will pay for covered services.
Does the plan use a network of providers?	Yes, but it also covers out-of-network services.	It's important to know which doctors and other health care providers the plan will pay for. If you use an out-of-network provider, you may pay more for services. Check the plan's network of providers.
Do I need a referral to see a specialist?	No.	You can see the specialist you choose without permission from the plan.
Are there services this plan doesn't cover?	Yes.	Some of the services this plan doesn't cover are listed later in the document. See your policy or plan document for additional information about excluded services.

CITY OF LAKEWOOD: Plan 2 – MMO LO Plan NON - AFSCME Only

2017
Coverage for: Single or Family / Plan Type: PPO

This is only a summary. I will want more detail about your coverage and costs, you can get the complete terms in the policy or plan document at www.medmutual.com, or by calling 800.232.2200.

Common Medical Events	Services You May Need	Amount You'll Pay	Amount You'll Receive	Out-of-Pocket Maximum
If you visit a health care provider's office or clinic	Specialist visit Other provider's office visit Emergency room visit Urgent care visit Preventive care screening	10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance No charge	70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance None	None
If you have a test	Diagnostic test (x-ray) Diagnostic test (blood work) Imaging (CT/PET scans, MRI) Genetic tests Other tests	10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance	70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance	None
If you need surgery to treat your illness or condition provided by Express Scripts	Transcatheter aortic valve replacement (TAVR) Transcatheter aortic valve replacement (TAVR) Transcatheter aortic valve replacement (TAVR) Transcatheter aortic valve replacement (TAVR) Transcatheter aortic valve replacement (TAVR)	10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance	70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance	None
If you have outpatient surgery	Outpatient surgery Outpatient surgery Outpatient surgery Outpatient surgery Outpatient surgery	10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance	70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance	None
If you have inpatient surgery	Inpatient surgery Inpatient surgery Inpatient surgery Inpatient surgery Inpatient surgery	10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance 10% coinsurance	70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance 70% coinsurance	None

[illegible]

Pharmacy Program	Program Description
Generic Incentive	Requires use of generic drugs when available -- if chose to fill with brand name, not generic must pay the brand company

Requires use of generic drugs when available – if chose to fill with brand name not generic must pay the brand co-pay PLUS the difference in price between the brand and the generic

Specialty drugs are limited to a 30 day supply and require specialty pharmacy network

3 parts to this plan: Pre-authorization on certain drugs (taken 24 - 72 hours); Quantity Duration rules for limited number of doses in a certain timeframe; Preferred drug step therapy rules - requires the use of generic or lower cost brand name alternatives before higher cost non-preferred drugs, unless special circumstances exist.

Year	Plan	Percent of employee premium contribution	Employee premium contribution not-to-exceed amount	Plan design change
2017	MMO 90/10 single	13%	\$125	Deductible stays at \$500 out-of-pocket stays at \$2,000
	MMO 90/10 family	10%	\$180	Deductible stays at \$1,000; out-of-pocket stays at \$4,000
	MMO 90/10 single	13%	\$125	Deductible stays at \$500; out-of-pocket max stays at \$2,000
2018	MMO 90/10 family	10%	\$180	Deductible stays at \$1,000; out-of-pocket max stays at \$4,000
	MMO 90/10 single			
	MMO 90/10 family			
2019	MMO 90/10 single	reopener		
	MMO 90/10 family			
	MMO 90/10 family			

APPENDIX D Revision of September 8, 2008 Memorandum of Understanding

Letter of Understanding

The City, and the Lakewood Association of Firefighters, Local #382, agree to the following change to the MOU on staffing levels.

Because of changes in the CAD and station alerting systems the response to zones 23, 28 and the Westerly will be reviewed in a joint 382, LPA labor management meeting.

In the event that there are only two (2) LPA members on duty both LPA members shall be assigned to Squad 1.

In the event that an LPA member assigned to Squad 1 is on extended scheduled time off a member of LPA that is assigned to Squad 2 shall be detailed to Squad 1 for those shifts.

Changes in staffing that occur after the start of shift will not require a realignment of staffing.

Staffing Distribution

	Number of Personnel									
TRUCK 1	4	5	4	5	4	5	4	5	4	4
SQUAD 4	2	0	0	2	2	2	0	0	2	2
CAR 2	2	2	2	2	2	2	2	2	2	2
SQUAD 1	2	2	2	2	2	2	2	2	2	2
ENG 4	4	4	4	0	0	0	0	0	0	0
ENG 2	4	4	4	4	4	4	4	4	4	4
SQUAD 2	2	2	2	2	2	2	2	2	2	2
ENG 3	4	4	4	4	4	4	4	4	4	4
SQUAD 3	2	2	2	2	2	2	2	2	2	2
TOTAL	26	25	24	23	22	21	20	20	20	20

LAKEWOOD ASSOCIATION OF
FIREFIGHTERS LOCAL #382

CITY OF LAKEWOOD

Seth Andress
President, Local #382

Fire Chief

Kevin Butler
Law Director

DATE: _____

Appendix F Insurance Committee Rules

At the conclusion of the bargaining units' current collective bargaining negotiations, an employee-management committee represented by between one and three employees from each of the city's seven bargaining units and at least one representative of management shall be formed. The employer shall and the members of the committee may provide advisors or facilitators to assist the committee regarding health care issues. The committee will meet as often as necessary to complete its work, with a target of at least one meeting per month.

The committee shall be required to review the employer's current health care plans, including its plans for medical and prescription, and adopt one or more new or revised plans that are competitive in the health care market, will not be considered so-called "Cadillac Plans" under the Affordable Care Act and that will achieve the goals of promoting cost containment within the plan and minimizing premium contributions by employees.

In fulfilling its mission, the committee shall consider office co-pays, prescription drug rates, deductibles, maximum out of pockets, wellness programs and such other plan attributes and other related matters that may help the city achieve the goals set forth above.

No later than September 1, 2018, the committee shall vote upon proposed new or revised health care plan or plans that meet the goals set forth above. Each bargaining unit shall be entitled to cast one vote, no matter the number of employees representing the bargaining unit on the committee. The employer shall be entitled to cast one vote, no matter the number of representatives of management or non-union employees serving on the committee. If the committee unanimously approves such proposed new or revised plan or plans, then such plan or plans shall become the employer's plan or plans, and the employer shall be authorized and directed to implement the plan or plans. If the committee, however, fails by September 1, 2018 to approve unanimously a new plan or plans, then the reopener provisions in this agreement with respect to hospitalization coverage for the year 2019 will apply and the parties to this agreement will then separately engage in negotiations on that subject.

In 2019 the committee shall meet when appropriate to consider further and additional revisions to the employer's plan or plans in order to meet the goals set forth above. When meeting in 2019, the committee and the employer shall continue to follow the procedures set forth above for approving appropriate additional revisions to the employer's health care plan or plans. Neither party shall unreasonably refuse to participate in any committee meetings called by the employer.

Read & Referred to Finance Committee
2/6/17.

ORDINANCE NO. 1-17

BY:

AN ORDINANCE to take effect on January 1, 2017, provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, to provide for creating positions and rates of pay for full-time and certain part-time annual salaried employees and hourly rate employees not covered by a collective bargaining agreement in the several departments, divisions and offices of the City of Lakewood, including the Chief of Fire, Chief of Police and Civil Service Commissioners.

WHEREAS, pursuant to the Constitution of the State of Ohio, the Ohio Revised Code and the Second Amended Charter of the City of Lakewood, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality, and to provide for local self-government, including establishing salaries and rates of pay; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect on January 1, 2017, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that these changes need to be incorporated in order for new hires to occur on that date; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Classifications, rates of pay, pay grades, levels and certain other supplemental compensation for non-probationary full-time and certain part-time, annual salaried and hourly rate employees not covered by a collective bargaining agreement are hereby authorized, effective on the effective date of this ordinance, in the several departments, divisions and offices of the City of Lakewood, as modified herein, and with the approval of the Department Director, Director of Finance, Director Human Resources and Mayor as follows.

Section 2. Classification/Pay Grade Assignments and Pay Schedules.

<u>Grade</u>	<u>Classification Assigned to Pay Grade</u>	<u>Minimum Rate</u>	<u>Maximum Rate</u>
25	Property/Evidence Technician	\$30,189.89	\$42,682.28
26	Legislative Liaison Part-time Administrative Assistant	\$33,260.25	\$46,971.39
27	Project Specialist I Human Resource Associate	\$35,307.51	\$49,989.28
28	Administrative Assistant to the Mayor Civil Service/Mediation Program Coordinator Human Resource Specialist Legal Secretary	\$37,353.69	\$52,772.17
29	Assistant Law Director/Prosecutor I Chief Prosecutor (Part Time) First Assistant Law Director	\$39,400.97	\$56,831.74
31	Budget Analyst Clerk of Council Project Specialist II Public Information Officer City Planner I	\$45,541.70	\$64,254.60
32	Nutrition Supervisor Part-time Grants Administrator	\$47,587.86	\$66,376.21
33	Assistant Building Commissioner Assistant Law Director/Prosecutor II Senior Center Manager Tax Office Supervisor Finance Manager Clinical Manager City Planner Budget Manager City Planner II	\$50,656.05	\$71,445.74

<u>Grade</u>	<u>Classification Assigned to Pay Grade</u>	<u>Minimum Rate</u>	<u>Maximum Rate</u>
34	Building Commissioner Programs Manager Traffic Signs & Signals Manager Development Officer Senior City Planner	\$54,239.04	\$76,665.03
35	Assistant Director/Human Services Assistant Director/Planning and Development Chief Assistant Law Director Chief Prosecutor (Full Time) Executive Assistant to the Mayor/Community Relations Executive Assistant to the Mayor Project Administrator Project Manager Public Works Manager	\$58,845.13	\$83,044.04
36	Assistant Director of Finance I IS Project Manager	\$63,961.67	\$87,914.64
37	Assistant Director/Finance II Assistant Director, Safety – Building and Housing	\$74,195.84	\$92,378.64
38	Deputy Fire Chief Information Systems Manager City Architect City Engineer	\$77,266.21	\$99,392.54
39	Fire Chief Police Chief	\$81,359.65	\$111,326.55

Section 3. Pay Grade Assignments for Certain Unclassified Positions.

LEVEL I (Minimum \$56,854.70 – Maximum \$105,777.17)

Director of Finance
Director of Law
Director of Human Resources
Director of Human Services
Director of Planning and Development
Director of Public Works

LEVEL II (Minimum as statutorily required – Maximum \$22.54/hour)

Bus Driver P57

Cleaning Aide
Clerk/Receptionist
Complaint Investigator
Education Specialist
Kitchen Aide
Law Clerk
Legal Assistant I
Photo Lab Technician
Programmer/Scheduler
School Guard
Security Guard
Student Laborer
Student Police Cadet
Student Technician
Utility Inspector

LEVEL III (Minimum \$9.89/hour – Maximum \$22.09/hour)
(Classifications contained in the AFSCME II labor agreement)

Part-time Assistant Home Health Aide
Part-time Customer Service Representative
Part-time Human Services Case Manager
Part-time Juvenile Diversion Program Coordinator
Part-time Office Assistant
Part-time Staff Assistant
Part-time Tax Auditor
Part-time Tax Collection Specialist

LEVEL IV (Minimum \$23.18/hour – Maximum \$31.61/hour)

Part-Time Police Officer

LEVEL V (\$4,120/year)

Civil Service Commissioner

LEVEL VI (Minimum \$17.40/hour – Maximum \$21.76/hour)

Part-time Dispatcher

LEVEL VII (Minimum \$16.43/hour – Maximum 2-year rate of Full-time
Corrections Officer as established by the collective bargaining agreement)

Part-time Corrections Officer

All full-time employees are in a classification that has been assigned to a specific grade or level within the compensation system as identified herein. Newly hired full-time employees shall be placed at a pay rate within the pay grade or level to which their classification has been assigned in accordance with the Human Resources

Department Policy and Procedures. All full-time employees may advance through the pay grade in accordance with the Human Resources Department Policy and Procedures.

Section 4. Additional Annual License/Certification Supplement.

Full-time administrative employees working in a classification that requires a below listed license/certification shall receive the following license/certification supplements in biweekly or hourly increments as applicable:

<u>License/Certification</u>	<u>Amount</u>
Chief Building Official License (BO)	\$2,000
Master Plumber's License	\$1,750
Plumbing Inspector's License (PI)	\$1,500
Electrical Inspector's License (EI)	\$1,500
Class III Building Inspector's License (BI)	\$2,000
Class III Field Inspector's License	\$1,500
State Residential Building Inspector (RBI or equivalent)	\$1,000
ICC Property Maintenance Certification (or equivalent)	\$500
Master Plans Examiner (MPE)	\$1,000
Residential Building Official (RBO)	\$1,000
Class I Wastewater Treatment License	\$1,500
Class II Wastewater Treatment License	\$2,000
Class III Wastewater Treatment License	\$2,500
Class IV Wastewater Treatment License	\$1,000
Class I Water Distribution License	\$1,500
Class II Water Distribution License	\$1,000
Class I Water/Wastewater Collection License	\$1,500
Class II Water/Wastewater Collection License	\$1,000
ISA Certified Arborist	\$1,500
Licensed Independent Social Worker	\$1,000
Licensed Social Worker	\$500
Registered Nurse	\$200
Licensed Practical Nurse	\$200
Certified Home Health Aide	\$1,000
Licensed Professional Counselor	\$1,000
Communication Technician License	\$1,000
Certified Chemical Dependency Counselor III	\$500
Registered Sanitarian	\$500
Certified Lead Risk Assessor	\$500
Certified Pool Operator	\$350/ea up to a
Two or more ASE (Automotive Service Excellence) Certificates	max. of \$3,500
	\$100
Notary Public	

Section 5. Compensation for full-time salaried employees and for Level V part-time employees provided for herein shall be paid in equal biweekly installments.

Compensation for part-time employees provided for herein shall be at an identified hourly rate of pay for all hours worked in a particular pay period.

Section 6. To the extent it is inconsistent with any other ordinance or resolution previously adopted by Council with respect to the salary and wages of employees of the City, this ordinance is meant to and shall supersede such previously-adopted legislation.

Section 7. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 8. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force on January 1, 2017, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR

Read & Referred to Finance Committee
2/6/17.

ORDINANCE NO. 3-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$10,584,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS TO PAY COSTS OF (I) IMPROVING MADISON AVENUE BY PROVIDING NEW TRAFFIC SIGNALIZATION; (II) IMPROVING AND RENOVATING THE REFUSE FACILITY; (III) REPLACING THE ROOF ON CITY HALL; (IV) RESURFACING ATKINS AVENUE, ARLINGTON ROAD, ARTHUR AVENUE, BLOSSOM PARK AVENUE, BROCKLEY AVENUE, CLIFTON BOULEVARD, CRANFORD STREET, COVE AVENUE, DONALD STREET, HIRD AVENUE, LAKELAND ROAD, LAKELAND AVENUE, LARCHMONT AVENUE, LAUDERDALE AVENUE, LEWIS DRIVE, MADISON AVENUE, MCKINLEY AVENUE, MARLOWE AVENUE, MORRISON AVENUE, NICHOLSON STREET, NORTH MARGINAL STREET, NORTHLAND AVENUE, OLIVE AVENUE, OVERLOOK ROAD, SOUTH MARGINAL STREET, ST. CHARLES AVENUE, SUMMIT AVENUE, WASCANA AVENUE, WATERBURY ROAD, WOODWARD AVENUE, WOODWARD STREET, WYANDOTTE AVENUE, AND OTHER STREETS LOCATED WITHIN THE CITY; (V) IMPROVING DETROIT AVENUE, FRANKLIN STREET, HILLIARD STREET AND MADISON AVENUE BY PROVIDING NEW AND UPGRADED TRAFFIC SIGNALIZATION AND PEDESTRIAN SIGNALS; (VI) IMPROVING THE MUNICIPAL GARAGE VENTILATION SYSTEM; (VII) IMPROVING PARKS WITHIN THE CITY, INCLUDING LAKEWOOD PARK, WAGAR PARK AND THE LAKEWOOD PARK SKATE HOUSE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; (VIII) RECONSTRUCTING MADISON AVENUE; (IX) CONSTRUCTING A SHEET PILE BULKHEAD, DOCKS AND A PARKING AREA, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; (X) IMPROVING SIDEWALKS WITHIN THE CITY, (XI) REPLACING A SALT STORAGE FACILITY AND (XII) IMPROVING THE SEWER SYSTEM IN THE CITY BY CONSTRUCTING THE WEST END SEWER SEPARATION PROJECT AND A NEW SANITARY SEWER AND IMPROVEMENTS AND RENOVATIONS TO THE EXISTING SANITARY SEWERS AND STORM WATER SEWERS ALONG EDGEWATER DRIVE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO, AND RETIRING NOTES PREVIOUSLY ISSUED FOR SUCH PURPOSE; APPROVING RELATED MATTERS; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, the City Council (the "Council") of the City of Lakewood, Ohio (the "City") has issued notes dated April 5, 2016, in the aggregate principal amount of \$10,644,000, which will mature April 4, 2017 (the "Outstanding Notes"), in anticipation of the issuance of bonds described herein; and

WHEREAS, it appears advisable in lieu of issuing bonds at this time to issue new notes in anticipation of the issuance of bonds, and to retire all, or a portion of, the Outstanding Notes; and

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$10,584,000 (the "Notes") to retire all, or a portion of, the Outstanding Notes;

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$10,584,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 27 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$10,584,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of

the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

"Book-entry form" or "book-entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes "immobilized" to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial

ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be

established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Escrow Fund designated the "City of Lakewood, Ohio Roadway Series 2017 Escrow Fund" (the "Escrow Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Roadway Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Roadway Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Escrow Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to timely retire the Outstanding Notes and thereby preserve its credit, and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

Read & Referred to Finance Committee
2/6/17.

ORDINANCE NO. 4-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$1,250,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, ENGINEERING, PERMITTING AND CONSTRUCTING IMPROVEMENTS TO THE CITY'S EXISTING DIGESTER MIXERS, HEAT EXCHANGERS AND TANKS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$1,250,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$1,250,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently

estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 25 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$1,250,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Digester Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent

of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the

Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Digester Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Digester Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Digester Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to

assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

READ & Referred to the FINANCE Committee
2/6/17.

ORDINANCE NO. 5-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$2,270,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, PERMITTING, ENGINEERING AND CONSTRUCTING SEWER IMPROVEMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$2,270,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$2,270,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 40 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$2,270,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the

general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Sewer Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate

financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-

entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Sewer Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Sewer Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Sewer Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this

Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

Read & Referred to the Finance Committee
2/6/17.

ORDINANCE NO. 6-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$745,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, ENGINEERING AND CONSTRUCTING DRAINAGE IMPROVEMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$745,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$745,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 10 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$745,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the

general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Drainage Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate

financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-

entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Drainage Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Drainage Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Drainage Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this

Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. _____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

READ & REFERRED TO THE FINANCE COMMITTEE
2/6/17.

ORDINANCE NO. 7-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$2,745,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF DESIGNING, ENGINEERING AND CONSTRUCTING WATER IMPROVEMENTS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$2,745,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$2,745,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 34 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$2,745,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the

general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Water Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate

financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-

entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Water Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Water Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Water Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this

Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance
No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

READ & REFERRED TO THE FINANCE COMMITTEE
2/6/17.

ORDINANCE NO. 8-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$1,800,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF IMPROVING LAKE AVENUE AND MAPLE CLIFF DRIVE AND OTHER STREETS LOCATED WITHIN THE CITY, BETWEEN CERTAIN TERMINI, BY RESURFACING AND REPLACING CONCRETE, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$1,800,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$1,800,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently

estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 15 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$1,800,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Roadway Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent

of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the

Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Roadway Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Roadway Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Roadway Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to

assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

READ & REFERRED TO THE FINANCE COMMITTEE
2/6/17.

ORDINANCE NO. 9-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$800,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF IMPROVING PARKS WITHIN THE CITY, INCLUDING KIDS COVE PLAYGROUND AND KAUFMANN PARK, TOGETHER WITH ALL NECESSARY APPURTENANCE THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$800,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$800,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 10 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$800,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the

general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Park Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate

financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-

entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Park Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Park Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Park Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this

Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

Read & REFERRED TO FINANCE COMMITTEE 2/6/17

ORDINANCE NO. 10-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$650,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF IMPROVING SIDEWALKS WITHIN THE CITY; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$650,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$650,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 10 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$650,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the

State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Sidewalk Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check

or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the

Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Sidewalk Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Sidewalk Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Sidewalk Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the

City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

READ & REFERRED TO THE FINANCE COMMITTEE 2/6/17

ORDINANCE NO. 11-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$300,000 IN ANTICIPATION OF THE ISSUANCE OF BONDS; TO PAY COSTS OF REPLACING OR IMPROVING THE ROOF OF THE PUBLIC WORKS GARAGE AND OTHER PUBLIC BUILDINGS, TOGETHER WITH ALL NECESSARY APPURTENANCES THERETO; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$300,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$300,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently

estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 20 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$300,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Roof Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent

of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the

Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

“Book-entry form” or “book-entry system” means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes “immobilized” to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

“Depository” means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

The City may decide to discontinue use of the book-entry system through the Depository. In that event, Note certificates will be printed and delivered to the Depository.

If any Depository determines not to continue to act as a depository for the Notes for use in a book-entry system, the City and the Note Registrar may attempt to establish a securities depository/book-entry relationship with another qualified Depository under this Ordinance. If the City and the Note Registrar do not or are unable to do so, the City and the Note Registrar, after the Note Registrar has made provision for notification of the beneficial owners by the then Depository, shall permit withdrawal of the Notes from the Depository and authenticate and deliver bond certificates in fully registered form to the assigns of the Depository or its nominee, all at the cost and expense (including costs of printing and delivering definitive Notes), if the event is not the result of action or inaction by the City or the Note Registrar, of those persons requesting such issuance.

Section 11. The Director of Finance is hereby directed to create the following funds and accounts into which the proceeds of the Notes and all Revenues shall be deposited, which shall be established and maintained, except as otherwise provided, so long as any Note hereby authorized remains unpaid.

- (a) the Construction Fund designated the "City of Lakewood, Ohio Roof Improvement Series 2017 Construction Fund" (the "Construction Fund");
- (b) the Bond Fund, designated the "City of Lakewood, Ohio Roof Improvement Series 2017 Bond Fund" (the "Bond Fund"); and
- (c) the Issuance Expense Fund designated the "City of Lakewood, Ohio Roof Improvement Series 2017 Issuance Expense Fund" ("Issuance Expense Fund").

Proceeds from the sale of the Notes shall be deposited into the Construction Fund, the Bond Fund and Issuance Expense Fund as described in the Certificate of Fiscal Officer.

Section 12. Federal Tax Law Compliance. The City hereby covenants that it will comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Notes is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Notes so that the Notes will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it will restrict the use of the proceeds of the Notes in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the debt is incurred, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").

The Director of Finance, or any other officer of the City, including the Mayor, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Notes as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Notes or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Director of Finance, which action shall be in writing and signed by the Director of Finance, or any other officer of the City, including the Mayor, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to

assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio

READ & REFERRED TO THE FINANCE COMMITTEE
2/6/17.

ORDINANCE NO. 12-17

By:

AUTHORIZING THE ISSUANCE OF SPECIAL OBLIGATION INCOME TAX REVENUE NOTES IN THE AMOUNT OF NOT TO EXCEED \$1,100,000 TO PAY COSTS OF DESIGNING, ENGINEERING, AND CONSTRUCTING IMPROVEMENTS AND INSTALLING A RETAINING WALL ON THE NORTHERLY PROPERTY LINE OF THE WINTON CLIFF TO STABILIZE THE EXPOSED SHALE BLUFF; PROVIDING FOR THE PLEDGE OF REVENUES FROM THE CITY'S 1.50% INCOME TAX TO SECURE THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE NOTES IN ANTICIPATION OF BONDS; AND APPROVING RELATED MATTERS; AND DECLARING AN EMERGENCY

WHEREAS, the City of Lakewood (the "City") levies an income tax at a rate of 1.50% pursuant to Section 128 of the Codified Ordinances of the City (the "Income Tax") to provide funds for general municipal functions of the City;

WHEREAS, pursuant to Article XVIII, Section 3 of the Ohio Constitution, the City is authorized to issue special obligation revenue bond and bond anticipation notes supported by the Income Tax and in anticipation of the receipt of revenues of the Income Tax (the "Revenues") to provide funds for municipal purposes;

WHEREAS, this Council desires to issue special obligation income tax revenue bond anticipation notes in an aggregate principal amount not to exceed \$1,100,000 (the "Notes") to finance the costs of the improvement stated in the title of this ordinance (the "Project");

WHEREAS, the Notes shall be payable from and secured by income tax revenues of the City;

WHEREAS, this Council by a vote of at least five of its members determines that this Ordinance is an emergency measure, and that this Ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood (the "Charter"), and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments and further to allow the City to issue the notes with other notes to be issued by the City into a consolidated issue and obtain savings in the issuance of the notes. Now Therefore

BE IT ORDAINED by the City of Lakewood, Ohio, that:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds (the "Bonds") of the City, in anticipation of the levy of the Income Tax and receipt of the Revenues, in the principal sum of not to exceed \$1,100,000, for the purpose of paying the cost of the Project.

Section 2. Terms of the Bonds. The Bonds shall be dated prior to the maturity date of the Notes (as defined herein below), shall bear interest at the maximum average annual interest rate presently

estimated to be 4.50% per annum, payable semiannually until the principal sum is paid, and shall mature in 20 annual installments.

Section 3. Issuance of Bond Anticipation Notes. It is necessary to issue, and this Council hereby determines that there shall be issued, notes in anticipation of the issuance of the Bonds.

Section 4. Combining Notes for Purposes of Issuance and Sale. It is hereby determined, that for the purposes of issuance and sale, it may be in the best interest of the City to combine the Notes with other income tax revenue notes of the City authorized by separate ordinances of this Council. The Notes and such other notes shall be jointly referred to herein as the "Combined Notes." As used in this Ordinance, the term "Notes" shall also mean the Combined Notes, where appropriate. The Combined Notes shall be designated "City of Lakewood, Ohio Various Purpose Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance.

Section 5. Terms of the Notes; Certificate of Fiscal Officer Relating to Terms of Notes. Such anticipatory notes (the "Notes") shall be in the amount of not to exceed \$1,100,000, which sum does not exceed the amount of the Bonds. The Notes shall be dated the date established by the Director of Finance and certified to this Council and shall mature on such date as shall be determined by the Director of Finance and certified to this Council, provided that such date shall not be later than one year after the date of issuance of the Notes. The Notes shall be issued as fully registered notes in book-entry form only, in such denominations as shall be determined by the Director of Finance, but not exceeding the principal amount of Notes maturing on any one date and shall be numbered as determined by the Director of Finance. The Notes shall be issued as fully registered notes in book-entry form in denominations of \$100,000 or any integral multiple of \$5,000 in excess thereof. Coupons shall not be attached to the Notes. The Notes shall be sold in a transaction exempt from the requirements of Rule 15c2-12 of the United States Securities and Exchange Commission.

The Director of Finance is authorized and directed to execute a Certificate of Fiscal Officer Relating to Terms of Notes (the "Certificate of Fiscal Officer") setting forth the final terms of the Notes, consistent with the requirements of this Ordinance, and to present the same to this Council after closing.

Section 6. Income Tax Pledge; Security for the Notes. The Notes shall be issued pursuant to Article XVIII, Section 3 of the Ohio Constitution, the Charter of the City and this Ordinance for the purpose of the Project. The Notes may be issued in one or more series. The City hereby covenants and pledges, subject and pursuant to the Constitution and laws of the State of Ohio, to appropriate from the Revenues (a) amounts sufficient to pay principal and interest due on the Notes. The City hereby covenants and agrees that, so long as the Notes are outstanding, the City shall not attempt to create or otherwise permit a pledge or any other lien on the Revenues that is senior to or on a parity with the pledge of the Revenues contained in this Ordinance to pay the principal of and interest on the Notes; provided, however, that this provision shall not be read to limit the City's ability to issue general obligation debt for any municipal purpose. The City hereby covenants and agrees that, so long as the Notes are outstanding, it shall not suffer the repeal, amendment or any other change in this Ordinance or in the City's income tax ordinances that in any way materially and adversely affects or impairs (i) the sufficiency of the Revenues levied and collected or otherwise available for the payment of the Notes or (ii) the pledge or the application of the Revenues to the payment of the Notes.

The Notes shall be special obligations of the City, and the principal of and interest and any premium on the Notes shall be payable solely from the Revenues, and such payment shall be secured by a pledge of the Revenues as provided in this Ordinance.

The Notes shall be payable solely from the Revenues and shall be secured equally and ratably (i) by a pledge of the Revenues; provided, however, that any lien on or pledge of any fund, account, revenues or money shall be valid and enforceable only to the extent permitted by law. Nothing in this Ordinance or the Notes shall constitute a general obligation, debt or bonded indebtedness of the City; neither the general resources of the City shall be required to be used, nor the general credit of the City pledged for the performance of any duty under this Ordinance, the Notes; and further, nothing therein gives the Holders of the Notes, and they do not have, the right to have excises or taxes levied by the City, or by the State or the taxing authority of any other political subdivision, for the payment of principal of, redemption premium, if any, and interest on the Notes, but the Notes are payable from the Revenues, and each Note shall contain on the face thereof a statement to that effect; provided, however, that nothing in this Ordinance shall be deemed to prohibit the City, of its own volition, from using to the extent it is lawfully authorized to do so, any other resources or revenues for the fulfillment of any of the terms, conditions or obligations of this Ordinance, the Notes.

The City hereby covenants and agrees to observe and perform all its agreements and obligations provided for by the Notes and this Ordinance. All of the obligations under this Ordinance are hereby established as duties specifically enjoined by law and resulting from an office, trust or station upon the City within the meaning of Section 2731.01 of the Ohio Revised Code.

Section 7. Sale of the Notes. The Notes shall bear interest, based on a 360-day year of twelve 30-day months, payable at maturity, at such rate per annum as shall be determined by the Director of Finance and certified to this Council, provided that such rate shall not exceed 5.00% per annum. The Notes shall be, and hereby are, awarded and sold at private sale to KeyBanc Capital Markets Inc., Cleveland, Ohio (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer.

The Director of Finance is hereby authorized and directed to deliver the Notes, when executed, to the Original Purchaser upon payment of the purchase price and accrued interest, if any, to the date of delivery. The proceeds of such sale, except any accrued interest or premium thereon, shall be deposited in the Treasury of the City and used for the purpose aforesaid and for no other purpose.

Any accrued interest received from the sale of the Notes shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Notes, or other obligations of the City as permitted by law.

Section 8. Form and Execution of Notes; Payment of Notes. The Notes shall be executed by the Director of Finance and the Mayor, provided that any and all of such signatures may be a facsimile, shall be designated "City of Lakewood, Ohio Winton Cliff Improvement Income Tax Revenue Notes, Series 2017," or as otherwise determined by the Director of Finance, and shall be payable as to both principal and interest at the office of Note Registrar (as defined hereinbelow). The Notes shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance.

The principal of and interest on the Notes shall be payable in lawful money of the United States of America without deduction for the services of the Note Registrar. The principal of and interest on the Notes shall be payable upon presentation and surrender of the Notes at their maturity at the office of the Note Registrar. No Note shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Note, is signed by the Note Registrar as authenticating agent. Authentication by the Note Registrar shall be conclusive evidence that the Note so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Note Registrar or by such other person acting as an agent

of the Note Registrar as shall be approved by the Director of Finance on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Notes.

Section 9. Appointment of Note Registrar. The Director of Finance is authorized and directed to execute on behalf of the City a Note Registrar Agreement with such bank or other appropriate financial institution as shall be acceptable to the Director of Finance and the Original Purchaser, pursuant to which such bank or financial institution shall agree to serve as authenticating agent, note registrar, transfer agent, and paying agent (the "Note Registrar") for the Notes. Interest shall be payable at maturity by check or draft mailed to the Registered Owner hereof, as shown on the registration books of the City maintained by the Note Registrar. If at any time the Note Registrar shall be unable or unwilling to serve as such, or the Director of Finance in such officer's discretion shall determine that it would be in the best interest of the City for such functions to be performed by another party, the Director of Finance may, and is hereby authorized and directed to, enter into an agreement with a national banking association or other appropriate institution experienced in providing such services, to perform the services required of the Note Registrar hereunder. Each such successor Note Registrar shall promptly advise all noteholders of the change in identity and new address of the Note Registrar. So long as any of the Notes remain outstanding, the City shall cause to be maintained and kept by the Note Registrar, at the office of the Note Registrar, all books and records necessary for the registration, exchange and transfer of Notes as provided in this section (the "Note Register"). Subject to the provisions of this Ordinance, the person in whose name any Note shall be registered on the Note Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Note shall be made only to or upon the order of that person. Neither the City nor the Note Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Notes, including the interest thereon, to the extent of the amount or amounts so paid.

Any Notes, upon presentation and surrender at the office of the Note Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar, may be exchanged for Notes of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

A Note may be transferred only on the Note Register upon presentation and surrender thereof at the office of the Note Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Note Registrar. Upon that transfer, the Note Registrar shall complete, authenticate and deliver a new Note or Notes of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Notes surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Note Registrar shall not be required to transfer or exchange (i) any Note during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Notes, and ending at the close of business on the day of such mailing, or (ii) any Notes selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Notes are exchanged or transferred hereunder, the City shall cause to be executed, and the Note Registrar shall authenticate and deliver, the Notes in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the Council and Note Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect to the exchange or transfer. The Council or the Note Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the

Notes. All Notes issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Notes surrendered upon that transfer or exchange.

Section 10. Book-Entry System. For purposes of this Ordinance, the following terms shall have the following meanings:

"Book-entry form" or "book-entry system" means a form or system under which (i) the beneficial right to payment of principal of and interest on the Notes may be transferred only through a book-entry and (ii) physical Notes in fully registered form are issued only to a Depository or its nominee as registered owner, with the Notes "immobilized" to the custody of the Depository, and the book-entry is the record that identifies the owners of beneficial interests in those Notes.

"Depository" means any securities depository that is a clearing agency under federal law operating and maintaining, together with its participants, a book-entry system to record beneficial ownership of notes and to effect transfers of notes, in book-entry form, and includes The Depository Trust Company (a limited purpose trust company), New York, New York.

The Notes may initially be issued to a Depository for use in a book-entry system, and the provisions of this Section shall apply, notwithstanding any other provision of this Ordinance: (i) there shall be a single Note of each maturity, (ii) those Notes shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository; (iii) the beneficial owners in book-entry form shall have no right to receive Notes in the form of physical securities or certificates; (iv) ownership of beneficial interests in any Notes in book-entry form shall be shown by book-entry on the system maintained and operated by the Depository, and transfers of the ownership of beneficial interests shall be made only by the Depository and by book-entry; and (v) the Notes as such shall not be transferable or exchangeable, except for transfer to another Depository or to another nominee of a Depository, without further action by the City. Note service charges on Notes in book-entry form registered in the name of a Depository or its nominee shall be payable in same day funds delivered to the Depository or its authorized representative upon presentation and surrender of Notes as provided in this Ordinance.

The Note Registrar may, with the approval of the City, enter into an agreement with the beneficial owner or registered owner of any Note in the custody of a Depository providing for making all payments to that owner of principal and interest on that Note or any portion thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner (including wire transfer of federal funds) other than as provided in this Ordinance, without prior presentation or surrender of the Note, upon any conditions which shall be satisfactory to the Note Registrar and to the City. That payment in any event shall be made to the person who is the registered owner of that Note on the date that principal is due, or, with respect to the payment of interest, as of the applicable date agreed upon as the case may be. The Note Registrar will furnish a copy of each of those agreements, certified to be correct by the Note Registrar, to other paying agents for Notes and to the City. Any payment of principal or interest pursuant to such an agreement shall constitute payment thereof pursuant to, and for all purposes of, this Ordinance.

If requested, the Mayor, Director of Finance, Clerk of Council, or any other officer of this Council, is authorized and directed to execute, acknowledge and deliver, in the name of and on behalf of the City, the letter agreement among the City, the paying agent for the Notes and The Depository Trust Company, as depository, to be delivered in connection with the issuance of the Notes to the Depository for use in a book-entry system in substantially the form submitted to this Council.

assure the exclusion of interest from gross income and the intended tax status of the Notes; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with sections 141 through 150 of the Code and the Regulations.

The Director of Finance shall keep and maintain adequate records pertaining to investment of all proceeds of the Notes sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Notes which limits the amount of Note proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Director of Finance of the City is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Notes requires any such reports or rebates.

Section 13. Appointment of Bond Counsel. The Director of Finance, on behalf of this Council, is hereby authorized to appoint the law firm of Bricker & Eckler LLP to serve as bond counsel for the Notes. The fees to be paid to such firm shall be subject to review and approval of the Director of Finance, shall not exceed the fees customarily charged for such services, and shall be paid upon closing of the financing from proceeds of the Notes.

Section 14. Transcript of Proceedings; Execution of Additional Documents. The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Notes and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Notes and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Clerk of Council and a no-litigation certificate of the Mayor and the Director of Finance, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.

The Director of Finance is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Note Issuance. It is hereby determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Notes in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the Revenues are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Notes.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Emergency Measure. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operations of municipal departments, and for the further reason that this Ordinance is required to be immediately effective in order to issue and sell the Notes to enable the City to combine the Notes with other notes to be issued by the City into a consolidated note issue and obtain savings in the issuance of the Notes; and provided it receives the affirmative vote of at least five of this Council, this Ordinance shall take effect and be in force at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Charter.

Passed: _____, 2017

President of Council

Clerk of Council

Approved: _____, 2017

Mayor

CERTIFICATE

The undersigned Clerk of Council hereby certifies that the foregoing is a true copy of Ordinance No. ____ duly adopted by the Council of the City of Lakewood, Ohio on _____, 2017.

Clerk of Council
City of Lakewood, Ohio



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650

www.oneLakewood.com

Lakewood City Council

SAMUEL T. O'LEARY, PRESIDENT

DAVID ANDERSON, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
JOHN LITTEN, WARD 3
DANIEL O'MALLEY, WARD 4

February 21, 2017

Lakewood City Council
Lakewood, Ohio 44107

Re: Public Works Committee Report Regarding Resolution 8920-17

Dear Members of Council,

The Public Works Committee met on February 13, 2017 to discuss Resolution 8920-17 regarding a submerged lands lease for lakeside property north of Webb Road. All members of the Committee were present, as were Councilmembers Anderson and Marx as well as Public Works Director Beno and Assistant Law Director Swallow.

Director Beno described the nature and the scope of the Webb Road Outfall Repair Project to the Committee. The project is necessary to repair a manhole and an outfall pipe which have been damaged by erosion. He provided visual aides to illustrate the extent of the damage that has occurred. In cooperation with the City Engineer, the project has been planned and designed by a consultant, KS Associates. In order for the project to proceed, Council must demonstrate its approval to the Ohio Department of Natural Resources by passing Resolution 8920-17.

Director Beno explained that the City has communicated about the project to adjacent neighbors and that there are no concerns. He also clarified that the project is unrelated to issues of inappropriate discharge. A minor typographical error was discovered in the first Whereas clause and it was agreed that the word "feet" should follow the figure 1,653. After further discussion the Committee moved to recommend adoption of Resolution 8920-17 as amended.

Sincerely,

Ryan P. Nowlin, Councilmember at-Large
Chair, Public Works Committee

RESOLUTION NO. 8920-17

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, approving the use of submerged lands for property located at and abutting the Northern Terminus of Webb Road, Lakewood, Ohio (a legal description of which is attached hereto as Exhibit "A"), in order to permit the owners the opportunity to undertake lakeshore protection measures.

WHEREAS, property owners, City of Lakewood, 12650 Detroit Avenue, Lakewood, Ohio, have proposed to construct bluff stabilization and protection for a new waste water treatment plant effluent diffuser pipe located approximately 1,653 northward from the shoreline along the Lake Erie floor at Lakewood, Cuyahoga County, Ohio; and

WHEREAS, as part of the application to lease submerged lands, the parties involved must submit to the Ohio Department of Natural Resources a resolution from Lakewood City Council approving the proposed use of the submerged land; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure and that it shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that this approval is required to move forward with construction of this project this spring; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The City of Lakewood finds and determines that territory being proposed for construction of shore protection, which territory is further described in the application for a submerged lands lease identified in Exhibit "A", is not necessary or required for the construction, maintenance or operation by the municipal corporation of breakwaters, piers, docks, wharves, bulkheads, connecting waterways, water terminals, facilities and improvements, and marginal highways in the aid of navigation and water commerce, and the land uses specified in the application comply with regulation of permissible land use as determined by the city.

Section 2. The Clerk of Council is hereby authorized and directed to certify a copy of this resolution to the Ohio Department of Natural Resources, Office of Real Estate and Land Management.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4. This resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of at least five councilmembers, it shall take effect and be in force immediately upon its adoption and approval by the Mayor, or otherwise it shall take effect and be in force from and after the earliest period allowed by law.

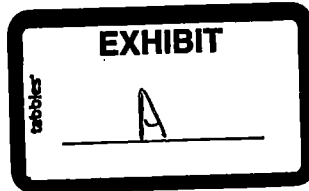
Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR



KS ASSOCIATES

Submerged Land Lease Parcel 1
1572 Square Feet (0.0361 Acre)
Page 1 of 2

Situated in the City of Lakewood, County of Cuyahoga and State of Ohio and known as being submerged land within Lake Erie adjacent to Original Rockport Township Section 23 (Fractional Township 7-N, Range 14-W Connecticut Western Reserve), being more definitely described as follows:

Commencing at an iron pin found in a monument box at the intersection of the centerline of Webb Road (50 feet wide) and the centerline of Lake Avenue (100 feet wide);

Thence, along the centerline of Webb Road, North $00^{\circ} 32' 06''$ East, 168.32 feet to a MAG nail set at the intersection of the centerline of Webb Road and the intersection of Edgewater Drive (60 feet wide);

Thence, leaving the centerline of Webb Road, North $89^{\circ} 27' 54''$ West, 25.00 feet to the westerly right of way of Webb Road;

Thence, along the westerly right of way line of Webb Road, North $00^{\circ} 32' 06''$ East, 264.12 feet to the natural shoreline of Lake Erie as observed on October 28, 2016, and the **True Point of Beginning** for the parcel herein described;

Thence, along the littoral rights partition line between Webb Road and land conveyed to Nancy W McCann as recorded in Volume 96-01430, Page 40 of the Cuyahoga County Records as shown on Submerged Land Lease No. SUB-1481-CU, North $00^{\circ} 32' 06''$ East, 23.50 feet;

Thence, leaving said littoral rights partition line, along the arc of a curve which deflects to the right, 15.83 feet, said curve having a radius of 11.00 feet, a central angle of $82^{\circ} 27' 56''$, and a chord length of 14.50 feet which bears North $41^{\circ} 46' 02''$ East;

Thence, North $83^{\circ} 00' 00''$ East, 27.10 feet;

Thence, along the arc of a curve which deflects to the right, 12.48 feet to the littoral rights partition line between Webb Road and land conveyed to Guilherme and Heather Oliveira as recorded in AFN 201106140378 of the Cuyahoga County Records, said curve having a radius of 12.00 feet, a central angle of $59^{\circ} 36' 29''$, and a chord length of 11.93 feet which bears South $67^{\circ} 11' 45''$ East;

Thence, along said littoral rights partition line, South $04^{\circ} 52' 09''$ East, 26.91 feet to the natural shoreline of Lake Erie;

Thence, along the natural shore line of Lake Erie the following six courses:

South $56^{\circ} 42' 55''$ West, 3.00 feet;

Thence, North $82^{\circ} 13' 59''$ West, 6.03 feet;

Thence, South $71^{\circ} 25' 17''$ West, 4.88 feet;

Thence, South $88^{\circ} 57' 56''$ West, 15.65 feet;

Thence, South $72^{\circ} 28' 51''$ West, 5.46 feet;

Thence, South $83^{\circ} 23' 32''$ West, 16.22 feet to the point of beginning.

KS ASSOCIATES

Submerged Land Lease Parcel 1
1572 Square Feet (0.0361 Acre)
Page 2 of 2

Containing within said bounds 1572 square feet (0.0361 acre) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor No. 7730 in May, 2016.

The basis of bearings for this survey is Ohio State Plane, North Zone NAD83(2011) Grid North.

T. A. Bixler 12-7-16
Trevor A. Bixler, P.S.
Professional Surveyor, Ohio No. 7730



KS ASSOCIATES
Civil Engineers + Surveyors
260 Burns Road, Suite 100
Elyria, OH 44035
440 365 4730

R:\15000\15015\Legal Descriptions\Webb Road SLL PARCEL1.docx

Submerged Land Lease Parcel 2
19,080 Square Feet (0.4380 Acre)
Page 1 of 1

Situated in the City of Lakewood, County of Cuyahoga and State of Ohio and known as being submerged land within Lake Erie lakeward of Original Rockport Township Section 23 (Fractional Township 7-N, Range 14-W Connecticut Western Reserve), being more definitely described as follows:

Commencing at an iron pin found in a monument box at the intersection of the centerline of Webb Road (50 feet wide) and the centerline of Lake Avenue (100 feet wide);

Thence, along the centerline of Webb Road, North 00° 32' 06" East, 168.32 feet to a MAG nail set at the intersection of the centerline of Webb Road and the intersection of Edgewater Drive (60 feet wide);

Thence, leaving the centerline of Webb Road, North 89° 27' 54" West, 25.00 feet to the westerly right of way of Webb Road;

Thence, along the westerly right of way line of Webb Road, North 00° 32' 06" East, 264.12 feet to the natural shoreline of Lake Erie as observed on October 28, 2016;

Thence, along the littoral rights partition line between Webb Road and land conveyed to Nancy W McCann as recorded in Volume 96-01430, Page 40 of the Cuyahoga County Records as shown on Submerged Land Lease No. SUB-1481-CU, North 00° 32' 06" East, 997.23 feet;

Thence, leaving said littoral rights partition line, South 89° 04' 21" East, 3.71 feet to the **True Point of Beginning** for the Parcel herein described;

Thence, North 00° 55' 39" East, 636.00 feet;

Thence, South 89° 04' 21" East, 30.00 feet;

Thence, South 00° 55' 39" West, 636.00 feet;

Thence, North 89° 04' 21" West, 30.00 feet to the point of beginning.

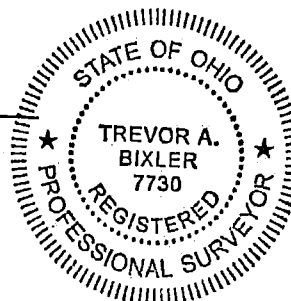
Containing within said bounds 19,080 square feet (0.4380 acre) of land as surveyed by KS Associates, Inc. under the supervision of Trevor A. Bixler, Professional Surveyor No. 7730 in May, 2016.

The basis of bearings for this survey is Ohio State Plane, North Zone NAD83(2011) Grid North.

T. A. Bixler 12-7-16

Trevor A. Bixler, P.S.
Professional Surveyor, Ohio No. 7730

KS ASSOCIATES
Civil Engineers + Surveyors
260 Burns Road, Suite 100
Elyria, OH 44035
440 365 4730





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JOHN LITTEN, WARD 3
DANIEL J. O'MALLEY, WARD 4

February 21, 2017

Lakewood City Council
Lakewood, OH 44107

Re: February 13, 2017 Public Safety Committee meeting

Dear Colleagues:

The Public Safety Committee met on February 13, 2017 at 6 p.m. The only item on our agenda was Resolution 8916-17, a resolution to extend the moratorium on retail medical marijuana establishments. All members of the committee were present, as was Chief Assistant Law Director Jennifer Swallow and Legislative Liaison Maureen Bach. The committee was also joined by attorney Tom Haren and his client Steve Ernst, who is interested in obtaining a state license to operate a dispensary to be potentially located in Lakewood.

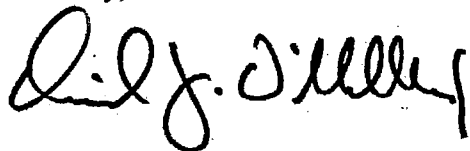
Assistant Director Swallow began by reviewing our previous moratorium and the status of the state of Ohio's process for regulating medical marijuana. Mr. Haren discussed his client's concerns with the moratorium, stating that it inhibits applicants from moving forward on the preliminary work that must be done to obtain a state license. He explained that license applicants must demonstrate that they have secured a location for the dispensary in order to proceed through the process. He remarked that lots of pieces will have to come together quickly for applicants and that it is expected that dispensary applications will be due in September. The state wants to see a demonstration of local buy-in before approving a dispensary, or at the very least a lack of opposition. He noted that even without a moratorium, no dispensary can open without going through the state licensure process which is certainly more than six months away.

Councilman Bullock raised important concerns about how medical marijuana dispensaries might impact public safety, the ongoing opioid crisis, and expressed a desire to study the issue more in-depth. Councilman Litten asked about what formal actions other municipalities in Cuyahoga County have taken on the matter, and Assistant Director Swallow indicated she would seek that information and provide it to the committee.

I noted the referendum's potentially harmful redundancies that Messrs. Haren and Ernst brought to our attention, and expressed my opinion that council should ultimately repeal the referendum and move on to the question of whether we want to allow medical marijuana in Lakewood and, if so, what additional regulations we might place on it.

The meeting adjourned without the committee making a recommendation on Resolution 8916-17.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel J. O'Malley". The signature is fluid and cursive, with the first name "Daniel" and last name "O'Malley" clearly distinguishable.

Daniel J. O'Malley
Chair, Public Safety Committee
Councilmember, Ward 4

RESOLUTION NO. 8916-17

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force at the earliest period allowed by law, to extend a moratorium on the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable the cultivation, processing, or retail sale of medical marijuana for a period not to exceed six months from the effective date of this resolution, in order to allow Council and the Lakewood Planning Commission to review applicable Ohio statutes, criminal codes and the Lakewood Zoning Code relative to such use.

WHEREAS, on June 8, 2016, the Ohio General Assembly has adopted and the Governor has signed into law 131 Sub. H.B. 523, which became effective September 8, 2016; and

WHEREAS, 131 Sub. H.B. 523, among other things, permits patients in Ohio to use medical marijuana on the recommendation of physicians; creates state regulatory oversight of the cultivation, processing, retail sale, use and physician recommendation of medical marijuana; authorizes the legislative authority of a city to adopt regulations to prohibit or limit the number of retail medical marijuana dispensaries; and prohibits a cultivator, processor, retail dispensary or laboratory from being located or relocating within 500 feet of a school, church, public library, public playground or public park; and

WHEREAS, with the adoption of Resolution 8878-16, Council imposed a six-month moratorium in July 2016 on medical-marijuana-related activities in Lakewood; and

WHEREAS, the rules involving these various aspects of the new law continue to be proposed and written at the state level; and

WHEREAS, as such, Council and the Planning Commission require additional time to undertake a review of all applicable codes statewide and within the city in order to formulate a local response to 131 Sub. H.B. 523; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact planning and zoning laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality including restricting areas used for businesses and trades; and

WHEREAS, this Council by a vote of at least five members thereof determines that this resolution is an emergency measure, that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amend-

ed Charter of the City of Lakewood and that it is necessary for the immediate preservation of the public property health and safety and to provide for the usual daily operation of municipal departments in that the affected businesses are able to apply for a permit immediately notwithstanding the potential application of criminal and zoning codes; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Council hereby extends the moratorium imposed by Resolution 8878-16 on the granting of building permits or certificates of occupancy for any building, structure, use or change of use that would enable the cultivation, processing, or retail sale of medical marijuana for a period not to exceed six months from the effective date of this resolution, in order to allow Council and the Lakewood Planning Commission to review applicable Ohio statutes, criminal codes and the Lakewood Zoning Code relative to such use

Section 2. For the purpose of this resolution, "medical marijuana" shall have the same meaning as that term is defined in Section 3796.01(A)(2) of the Ohio Revised Code.

Section 3. No building permits, certificates of occupancy or any other permits shall be granted to a business owner who intends to open, use any land or devote any floor area of the business for the purposes of the cultivation, processing, or retail sale of medical marijuana for the period of this moratorium. No valid existing business in the City may expand in any way that would establish cultivation, processing, or retail sale of medical marijuana for the duration of the moratorium.

Section 4. The moratorium shall be in effect for a period of six months from the effective date of this resolution or until changes are enacted to amend the Codified Ordinances of the City of Lakewood to address these issues or until Council approves legislation explicitly revoking this moratorium, whichever occurs first.

Section 5. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council this resolution shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise shall take effect and be in force after the earliest period allowed by law.

Section 6. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR

ORDINANCE NO. 13-17

BY:

AN ORDINANCE amending Section 109.04, Minutes Open to Public, of the Codified Ordinances of the City of Lakewood.

WHEREAS, the Codified Ordinances stand to be updated in order to provide for the posting of public meeting minutes on the City's official website; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 109.04, Minutes Open to Public, of the Lakewood Codified Ordinances, currently reading as follows:

109.04 MINUTES OPEN TO PUBLIC.

Minutes of all regular and special meetings of public bodies set forth in Section 109.01 shall promptly be recorded in writing and open to the public for inspection. Minutes of executive sessions of public bodies need only reflect the general subject matter of discussion in such executive session.

shall be and hereby is repealed, and new Section 109.04, Minutes Open to Public, is enacted to read as follows:

109.04 MINUTES OPEN TO PUBLIC.

Minutes of all regular and special meetings of public bodies set forth in Section 109.01 shall promptly be recorded in writing, and open to the public for inspection and posted in digital format on the primary website of the City. Minutes of executive sessions of public bodies need only reflect the general subject matter of discussion in such executive session.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650
www.onelakewood.com

Lakewood City Council
SAM O'LEARY, PRESIDENT
DAVID ANDERSON, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
JOHN LITTEN, WARD 3
DAN O'MALLEY, WARD 4

February 21, 2017

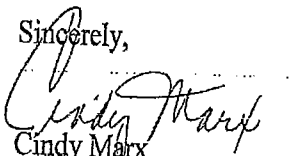
Dear Colleagues,

The Lakewood Animal Safety and Welfare Advisory Board completed the educational materials they have prepared over the past year. The material includes the power point presentation to be reviewed at the Landlord Training seminars and The Guide to Responsible Pet Ownership to be used as educational material for our residents. The Board is seeking approval of materials and expenses associated for the printing of brochures. The brochure and power point should be made available on our City website for easy download.

Over the next year the Board will be working on information to disseminate to the community on how to address wildlife (deer, coyotes, fox, raccoons, etc.) and feral dogs and cats that may be a nuisance on properties. The Board welcomes suggestions from Council on issues regarding animals that are brought to your attention from our residents.

Thank you for your review of this information.

Sincerely,


Cindy Marx
Councilmember At-Large

LASWAB		
Responsible Pet Ownership Brochure		
Costs		
Design Quotes		
Description		Vendor
Layout, Design, Labor	Donated	Juleen Russell
Graphics	Purchase of Photo Rights	Dreamstime
Printing Quotes		
Vendor	Description	Quantity
Office Depot/Office Max	8.5" x 11" Bi-fold	250
		500
		1000
		2000
Adkins & Co.	8.5" x 11" Bi-fold	250
		500
		1000
		2000
Spending Recommendation		
Vendor	Description	Quantity
Adkins & Co. Printing	8.5" x 11" Bi-fold Black and W	1000
Dreamstime	Rights to photos	
		Total

Amount	
	\$ -
	\$50
B&W Color	
\$ 44.00	\$ 240.00
\$ 72.00	\$ 480.00
\$ 144.00	\$ 960.00
\$ 256.00	\$ 1,920.00
\$ 40.00	\$ 100.00
\$ 65.00	\$ 175.00
\$ 100.00	\$ 330.00
\$ 160.00	\$ 500.00
Cost	
	\$ 100.00
	\$ 50.00
	\$ 150.00

CITY OF LAKEWOOD ANIMAL SHELTER

1299 Metropark Drive
Lakewood, OH 44107
Phone: (216) 529-5020

Adoption Hours:

Tuesday, Thursday 12 pm - 6 pm
Wednesday, Friday & Saturday 12 pm - 4 pm

GUIDE TO RESPONSIBLE PET OWNERSHIP

Owning a pet can be life enriching, but the benefits of pet ownership come with responsibilities. Join us in creating a healthy and safe environment for our great city's pets and their people.



LAKEWOOD
OHIO



P168

Lakewood Police
Department,
Animal Control
Lakewood Animal
Safety and
Welfare Advisory
Board



RESPONSIBILITY

IS THE KEY WORD IN BEING A PET OWNER IN THE CITY OF LAKEWOOD

The following are important features of Chapter 505 of the Lakewood Codified Ordinances that deal with domestic animals. For more information visit the Animal Control webpage at onelakewood.com.

- All animals shall be kept on a leash and shall not be permitted to run at large anywhere within the city limits.
- Pet owners must pick up their animal's waste and dispose of it in a timely and sanitary manner - whether the waste was deposited on their own property or anywhere else within the city.
- All dogs and cats over 120 days old must be currently immunized against rabies by a licensed veterinarian.
- Dogs must have an annually issued Cuyahoga County license, and wear a valid tag.
- The feeding of wildlife and stray cats is prohibited.
- No animal shall create a disturbance (e.g. barking, howling) to residents.
- Cruelty to animals is prohibited in the City of Lakewood.
- The owning or harboring of chickens is allowed by permit only.
- The owning of certain animals, including pit bull and canary dogs, pot belly pigs, venomous reptiles, 14 foot or larger constrictor snakes, or roosters is prohibited. (Refer to Section 505 and 506 of the Codified Ordinances for full details.)
- Abandoning your animals against the law. Refer to the Resources section at right should you need help rehoming your animal.
- Animals may be impounded if in violation of Animal Control Ordinances. Payment of an impound fee is required in order for the animal to be released. Animals can be picked up at the Lakewood Animal Shelter.

RESOURCES

KEEP YOUR PET HEALTHY, HAPPY AND SAFE

Veterinarians

- Lakewood Animal Hospital
216-226-0400
- Roberts & Wendt Animal Hospital
216-521-0533

Animal Welfare, Adoption and Volunteering

- All Dogs Heaven
info@alldogsheaven.org
- Citizens Committee for the Lakewood Animal Shelter (CCLAS)
ccclasweb@yahoo.com
- Cleveland Animal Protective League (APL)
216-771-4616
- Northeast Ohio SPCA
216-351-7387

Pet Exercise

- Lakewood Dog Park
- Lakewood Parks where pets are allowed

Kauffman Park
Lakewood Park
Madison Park

Government Shelters

- Lakewood Animal Shelter
- Cuyahoga County Animal Shelter

If you find yourself unable to keep your pet, please note that the Lakewood Animal Shelter does NOT accept owner surrendered animals. If you are unable to re-home your pet yourself, please plan ahead to contact an animal welfare group in order to make the proper arrangements to surrender your pet. This will assure your pet's best chance at finding an adoptive home.

Emergency Veterinarians

- West Park Animal Hospital
216-252-4500
- Animal Emergency Clinic West
216-362-6000

Low Cost Spay/Neuter & Vaccination

- 4 Pets Clinic
440-934-5353
- Spay Neuter Clinic
216-398-1081
- PetFix Northeast Ohio Clinic
216-732-7040

County Dog Licenses

- Discount Drug Mart Stores
- Cleveland Animal Protective League (APL)
216-771-4616
- Online at cuyahogacounty.us

216-529-5020
216-525-7877



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650
www.onelakewood.com
Lakewood City Council
SAMUEL T. O'LEARY, PRESIDENT
DAVID ANDERSON, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
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CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
JOHN LITTEN, WARD 3
DANIEL O'MALLEY, WARD 4

February 21, 2017

Lakewood City Council
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: Proposed Ordinance Regarding Owner Occupied Two-Family Homes

Dear Colleagues,

I propose that the City of Lakewood consider requiring the owners of owner occupied two-family homes to apply for an annual housing license. The table below and the following bullet points should provide some context.

Type	Total Houses	Total Annual Licenses Issued
Singles	9,450	547
Doubles	3,150	1,639
Triples	600*	600*
	13,200	2,600

* Data being verified.

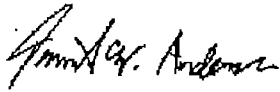
- About five out of 100 single-family homes are considered rentals.
- Close to 52 percent of all two-family homes are identified as owner occupied.
- All singles and doubles that are not owner occupied require an annual license.
- All triples require an annual license regardless if owner occupied.

As we all realize, the housing license goes a long way to ensure that landlords employ best practices. However, a key feature of the annual application is the requirement of basic tenant information which can be cross referenced to ensure that those who live in Lakewood are paying Lakewood Municipal Tax. In addition to the annual application, Lakewood's Finance Department has other tools to help identify residents including one through which the State of Ohio indicates Ohio residents who have filed with an Ohio return with Lakewood address.

Conservatively, it is believed these tools have a positive \$200,000 impact on annual municipal tax revenue received. It may make sense to strengthen the one tool we can best control to better identify residents who should be paying municipal tax. The processing and issuing of 1,500 additional license applications may be well worth the effort in the short-term and additional returns gained will help to ensure Lakewood's overall long-term sustainability.

I look forward to a thorough conversation on this matter and I ask that this communication and the accompanying ordinance be referred to a committee of Council's choosing.

Yours in Service,

A handwritten signature in black ink, appearing to read "David W. Anderson". The signature is fluid and cursive, with the first name "David" being more prominent.

David W. Anderson
Member of Council, Ward 1
216-789-6463
david.anderson@lakewoodoh.net

ORDINANCE NO.

BY:

AN ORDINANCE amending Section 1306.43, Housing and Vacant Property License, and Section 1306.44, License Application Form and Fee, of the Codified Ordinances of the City of Lakewood.

WHEREAS, the Codified Ordinances stand to be updated in order to provide for the application of housing licenses to all two-family homes in Lakewood; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Subsection (b) of Section 1306.43, Housing and Vacant Property License, of the Lakewood Codified Ordinances, that section currently reading as follows:

1306.43 HOUSING AND VACANT PROPERTY LICENSE.

(a) Application. This section applies to:

- (1) Any structure or portion of any structure in which there are one or more rental dwelling units or in which a rooming house is operated, whether occupied or not;
- (2) Condominium property as defined in Ohio R.C. Chapter 5311, whether occupied or not, in which case the owner of the condominium property or the unit owners association shall be required to obtain the housing license as provided herein; and
- (3) Vacant dwelling structures or commercial structures, whether rental property or not.

(b) Limitations. This section does not apply to lawful one- and two-family structures occupied in part or wholly by the owner as the owner's principal residence.

(c) In General.

- (1) No person shall rent or cause to be rented a dwelling unit or a portion of a dwelling unit to another unless the person has been issued a housing license as provided for in this section.
- (2) No owner of a structure shall maintain or cause to be maintained the structure in a vacant or abandoned status as defined in Section 1306.72

without having been issued a vacant property license as provided for in this section.

- (3) No person in control of a property other than an owner, including but not limited to a mortgagee, property holding company, property manager or lienholder, shall maintain the property in a vacant or abandoned status as defined in Section 1306.72 without having been issued a vacant property license as provided for in this section.

(d) Required Licenses.

- (1) A housing license is required for each dwelling unit in a structure.
 - (2) A vacant property license is required for each vacant residential or commercial structure.
 - (3) The Building Commissioner or his or her designee (as used in this section, "Building Commissioner") shall determine at his or her sole discretion the number of dwelling or commercial units existing within a structure.
- (e) Issuance. The Building Commissioner shall issue the applicable license to each applicant meeting the requirements of this chapter.
- (f) Scope. A license authorizes a licensee to rent a dwelling unit or a portion of a dwelling unit or permits a property to be maintained in a vacant status.

shall be and hereby is repealed, and new Subsection (b) of 1306.43, Housing and Vacant Property License, is enacted to read as follows:

1306.43 HOUSING AND VACANT PROPERTY LICENSE.

...

- (b) Limitations. This section does not apply to lawful one- -family structures occupied in part or wholly by the owner as the owner's principal residence.

...

Section 2. Subsection (d) of Section 1306.44, License Application Form and Fee, of the Lakewood Codified Ordinances, that section currently reading as follows:

1306.44 LICENSE APPLICATION FORM AND FEE.

- (a) In General. An applicant for a housing or vacant property license shall:
- (1) Submit to the Building Commissioner or his or her designee (as used in this section, "Building Commissioner") an application on a form prescribed by the Building Commissioner; and
 - (2) Except as provided for in division (a)(3) of this section, in the case of an application for a housing license, certify that the applicant or an agent of the applicant has complied with at least two of the following requirements if the applicant has not had a housing license declared null and void pursuant to Section 1306.48:

- A. That the applicant uses a written rental agreement as defined in Section 5321.01(D) of the Ohio Revised Code; or
 - B. That the applicant uses a reputable tenant screening agency for criminal and eviction background checks; or
 - C. That the applicant or agent of the applicant has within the past two years attended a landlord-tenant informational seminar approved by the Building Commissioner; and
- (3) In the case of an application for a housing license, if the applicant has had a housing license declared null and void pursuant to Section 1306.48 in the previous two years, certify that the applicant or an agent of the applicant has complied with all three of the requirements in Section 1306.44(a)(2) and demonstrate compliance with all outstanding citations or correction notices issued pursuant to Chapter 1306 and with any outstanding fines or assessments issued pursuant to Chapter 510; and
 - (4) In the case of an application for a vacant property license, a copy of the declarations page for at least one policy of liability insurance covering the property and acknowledging that the property is vacant; and the combination to a Knox Box system or such other rapid-entry system of comparable quality authorized by the Chief of Fire containing keys necessary to aid the Division of Fire in obtaining access to the structure when responding to calls for an emergency service; and
 - (5) Pay to the Building Commissioner the application fee established by this section.
- (b) Required Application Information. In addition to any other information required on an application form, the application form shall require:
 - (1) The applicant's name and the address of the applicant's principal place of business; and
 - (2) A description of the dwelling structure and the structure's address, including unit numbers; and
 - (3) The name and address of the property manager, resident agent or trustee, when applicable; and
 - (4) The name and address of an adult individual who is a resident of Ohio and is designated as the applicant's agent for receiving service of process, notices or any other papers from the City; and
 - (5) The type of structure as certified by the City, including the number of stories, in which the dwelling unit is located; and
 - (6) In the case of a housing license, the full names of all adult tenants and the number of minor tenants living in the residential unit as of the date the application is tendered to the City and, if applicable, the dwelling unit numbers in which the tenants reside; and
 - (7) The year the dwelling in which the dwelling unit is located was constructed; and

- (8) The type and number of smoke detectors in the dwelling unit; and
 - (9) The type of heating system in the dwelling unit; and
 - (10) The type of hot water heating system in the dwelling unit; and
 - (11) The name and telephone number of the person or entity responsible for sidewalk snow removal, grass cutting, and the removal of garbage containers from the tree lawn; and
 - (12) A statement by the applicant certifying, for each dwelling unit in the structure, that the applicant has personally witnessed within the 12-month period immediately preceding the date of the application that:
 - A. Smoke and carbon monoxide detectors are present and operational pursuant to Chapter 1331; and
 - B. No visible electrical or other hazards are present; and
 - C. In the case of a housing license, there is hot and cold running water in the kitchen and each bathroom with no leaks below the sink area and all toilets flush; or in the case of a vacant property license, the plumbing has been winterized to prevent the freezing of pipes; and
 - D. In the case of a housing license, the heating system is operational; and
 - E. Railings are present on interior and exterior stairs as required by applicable code; and
 - F. No readily observable conditions exist that represent a threat to the health and safety of an occupant.
 - (13) In the case of a vacant property license, a statement by the applicant that all utilities to the structure have been disconnected, including electric service, which shall be disconnected at the utility pole, unless the applicant states that the structure is being actively marketed for sale.
- (c) The issuance of a housing or vacant property license upon the satisfaction of the conditions in this section shall not in any way be construed as City approval or determination as to the condition or livability of the unit or structure.
- (d) Fee Requirements.
- (1) The housing license fee shall be as follows:
 - A. Owner-occupied condominium units: \$2.00.
 - B. Non-owner-occupied condominium units: \$6.00.
 - C. Rooming house containing two or more tenants: \$60.00 per rooming unit.
 - D. Non-owner-occupied one- or two-family structures: \$75.00 per dwelling unit.

- E. Three-family dwellings: \$60.00 per non-owner-occupied unit.
- F. All other occupied structures: \$45.00 per dwelling unit.
- (2) There shall be a limit of \$2,000.00 for a condominium and \$3,500.00 for any other occupied structure.
- (3) The vacant property license fee shall be as follows:
 - A. Vacant housing structures: \$200.00 per structure.
 - B. Vacant commercial or mixed-use building: \$200.00 per structure.
- (e) Change of Information. The applicant shall inform the Building Commissioner in writing of any change in the information provided under subsection (b) of this section not more than 30 days after the change is made.
- (f) Corporations and Limited Liability Companies. If the applicant is a corporation or a limited liability company, an officer of the corporation or managing member of the limited liability company shall provide the information required under subsections (a) and (b) of this section.
- (g) Other Business Entities. If the applicant is an association or partnership, a member or partner shall provide the information required under subsections (a) and (b) of this section.

shall be and hereby is repealed, and new Subsection (d) of Section 1306.44, License Application Form and Fee, is enacted to read as follows:

...

- (d) Fee Requirements.
 - (1) The housing license fee shall be as follows:
 - A. Owner-occupied condominium units: \$2.00.
 - B. Non-owner-occupied condominium units: \$6.00.
 - C. Rooming house containing two or more tenants: \$60.00 per rooming unit.
 - D. Non-owner-occupied one-family structures and all two-family structures: \$75.00 per dwelling unit.
 - E. Three-family dwellings: \$60.00 per non-owner-occupied unit.
 - F. All other occupied structures: \$45.00 per dwelling unit.
 - (2) There shall be a limit of \$2,000.00 for a condominium and \$3,500.00 for any other occupied structure.
 - (3) The vacant property license fee shall be as follows:
 - A. Vacant housing structures: \$200.00 per structure.

B. Vacant commercial or mixed-use building: \$200.00 per structure.

...

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____
PRESIDENT

CLERK

Approved: _____
MAYOR



12650 DETROIT AVENUE • 44107 • 216/521-7580 • fax 216/521-1379
Website: www.onelakewood.com

MICHAEL SUMMERS
MAYOR

February 21, 2017

Lakewood City Council
Lakewood, Ohio 44107

Re: Mayoral appointment to the Lakewood Citizens Advisory Commission

Dear Members of Council:

It is with great pleasure that I announce my re-appointment of Corey Clay to the Lakewood Citizens Advisory Commission. His term will begin immediately and expire on December 31, 2018.

I am grateful that this fine Lakewood citizen is willing to volunteer his time, energy and knowledge to improve the quality of our community. I am confident that he will bring commitment, prudence and enthusiasm to this important responsibility.

Sincerely,

Michael P. Summers



**LAW DEPARTMENT
OFFICE OF PROSECUTION**

12650 Detroit Avenue | Lakewood, Ohio 44107
(216) 529-6030 | Fax (216) 228-2514
www.onelakewood.com
law@lakewoodoh.net

KEVIN M. BUTLER
DIRECTOR OF LAW

PAMELA ROESSNER
CHIEF PROSECUTOR

JENNIFER L. SWALLOW
CHIEF ASSISTANT
LAW DIRECTOR

ANDREW N. FLECK
ASSISTANT LAW DIRECTOR/
ASSISTANT PROSECUTOR

February 21, 2017

Lakewood City Council
12650 Detroit Avenue
Lakewood, Ohio 44107

Re: 2016 fourth quarter codification ordinance

Dear Members of Council:

Attached please find an ordinance authorizing the inclusion of those ordinances of a general and permanent nature adopted by Council on or before December 31, 2016 into the Codified Ordinances of the City of Lakewood.

The Walter H. Drane Company has completed the editing and printing of the 2016 quarterly replacement pages for the Codified Ordinances.

This legislation is necessary to allow the completion of this project by authorizing the inclusion of those replacement pages into the Codified Ordinances and the distribution of replacement pages to Council and employees who maintain hardbound copies of the Codified Ordinances.

Please refer the ordinance to an appropriate committee for further discussion.

Very truly yours,

Kevin M. Butler

ORDINANCE NO.

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter.

WHEREAS, the Walter H. Drane Company has completed a revision and updating of the Codified Ordinances of the City; and

WHEREAS, various ordinances and resolutions of a general and permanent nature that have been passed by Council but not yet included in the Codified Ordinances of the City have now been made a part thereof; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that the publication and distribution of the January 2017 Replacement Pages for the Codified Ordinances of the City of Lakewood should be conducted at the earliest date possible; now therefore,

BE IT ORDAINED BY CITY OF LAKEWOOD, OHIO:

Section 1. The editing, arrangement and numbering and renumbering of the following ordinances and resolutions and parts of ordinances and resolutions are hereby approved as parts of the various component codes of the Codified Ordinances of the City, so as to conform to the classification and numbering system of the Codified Ordinances:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
32-16	9-6-16	1121.10, 1123.10, 1125.10, 1127.10, 1722.01
35-16	10-3-16	121.07
37-16	11-21-16	510.01(a)
38-16	11-21-16	128.051, 128.091
39-16	12-5-16	1311.01 to 1311.05, 1311.99
46-16	12-19-16	902.04(d)
47-16	12-19-16	915.01(a)

Section 2. The Second Amended Charter published in the Codified Ordinances is the official Charter of the City of Lakewood.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor



Jennifer R. Pae
Director of Finance

12650 DETROIT AVENUE . 44107 . 216/529-6092 . FAX 216/529-6806

February 21, 2017

Lakewood City Council
Lakewood, OH 44107

Re: 2017 1st Quarter Transfers and Advances

Dear Members of Council:

The 2017 1st Quarter Transfer Ordinance reflects 25 percent of the total anticipated transfers between funds that were included within the 2017 appropriations.

It also includes \$432,000 that was advanced from the General Fund at the end of the year 2016 to four separate funds that needed the advance in order to end up in a positive position.

Please place on first reading and refer to the Finance Committee for further discussion.

Sincerely,

Jennifer R. Pae
Director of Finance



ORDINANCE NO.

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five (5) members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, law authorizing the transfer and advance of certain funds.

WHEREAS, this Council by a vote of at least five (5) of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public peace, property, health and safety, and to provide for the usual daily operation of municipal departments to provide for the usual daily operation of the City in that the City must record all financial transactions within the appropriate fiscal period. Now therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO

Section 1. That the Director of Finance be and is hereby authorized to make the following transfers and advances:

		2017	
		1st Quarter	
	Fund	Transfers Out	Transfers In
101	General Fund	\$ 240,068	
	Special Revenue Funds		
250	Office on Aging IIIB		\$ 172,500
	Internal Service Funds		
600	Hospitalization		\$ 63,333
601	Workers' Compensation		\$ 4,234
	Debt Service Payment s		
101	General Fund (HB 300 Lease)	\$ 55,000	
211	SCMR (HB 300 Lease)	\$ 6,250	
260	Lakewood Hosptl (HB 300 Lease)	\$ 300	
501	Water (HB 300 Lease)	\$ 3,813	
510	WWC (HB 300 Lease)	\$ 800	
511	WWTP (HB 300 Lease)	\$ 18,750	
520	Parking (HB 300 Lease)	\$ 1,125	
530	Winterhurst (HB 300 Lease)	\$ 20,000	
301	Debt Service Fund	\$ -	\$ 106,038
512	WWTP Improvements	\$ 450,000	
301	Debt Service Fund		\$ 450,000
	Fund	Advances Out	Advances In
240	Community Development Block Grant	\$ 40,000	
241	Emergency Shelter Grant	\$ 7,000	
281	Family to Family	\$ 85,000	
530	Winterhurst	\$ 300,000	
101	General Fund		\$ 432,000

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble, and provided it receives the affirmative vote of at least five (5) of members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor otherwise, it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor



DEPARTMENT OF PLANNING & DEVELOPMENT
BRYCE SYLVESTER, DIRECTOR

12650 Detroit Avenue • 44107 • (216) 529-6630 • FAX (216) 529-5936
www.onelakewood.com

February 21, 2017

Lakewood City Council
Lakewood, OH 44107

RE: Planned Development Zoning Chapter 1156

Dear Members of Council:

The Planned Development zoning chapter has been an effective regulation in Lakewood's code to support flexible, high quality, and creative urban infill projects throughout the city. McKinley Place and Rockport are two examples of projects that went through the Planned Development process with good success. Both projects are under construction and will serve as transformational housing projects in each respective neighborhood.

The Department of Planning has been evaluating the Planned Development Chapter to ensure it remains a relevant and effective zoning regulation today, and into the future. The Planned Development chapter has a well-developed and thorough process for developers to follow. It includes multiple reviews by City Council, Planning Commission, and Architectural Board of Review. This process remains relevant and is vital to the City in order to demand high quality projects to go through this process.

Through our research, we've identified a few unique challenges and limitations of the Chapter that we'd like to address. These include making edits primarily to the Purpose and Location of Planned Development sections of the code.

Please refer the matter to the Planning Commission for a review and recommendation.

Sincerely,

Bryce Sylvester
Director

ORDINANCE NO.

BY:

AN ORDINANCE to expand Chapter 1159, Planned Development, of the Zoning Code to permit planned developments in any zoning district and allow any use so long as that use is sensitive to the former permitted use and adjacent uses.

WHEREAS, revisions are necessary to the Planned Development chapter in the Zoning Code to support goals and objective outlined in the Community Vision; and

WHEREAS, the proposed Planned Development code will allow Lakewood to encourage orderly redevelopment of property, while allowing for flexible and creative approaches to deliver high quality, integrated site planning and design; and

WHEREAS, the Planned Development code will promote development that is innovative, flexible, and responsive to the market; now therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. That Chapter 1156, Planned Development, currently reading as follows:

1156.01 PURPOSE.

A Planned Development (PD) is meant to encourage more compact mixed use development, pedestrian-friendly site design, and an urban street character, in order to increase pedestrian traffic, reduce vehicular traffic, promote energy-efficient design, and accommodate a range of compatible land uses through appropriate site design. PD's are intended to permit a more flexible approach to land use control and to promote a variety of housing types developed among neighborhood-serving commercial uses and employment opportunities.

A PD encourages the development of compact, pedestrian-scaled, mixed-use neighborhoods and commercial centers while serving to provide greater efficiencies in use of infrastructure. It is intended to help advance revitalization initiatives along commercial corridors and recognize the market demand for new residential and commercial development within compact, pedestrian friendly districts. PD zoning is intended to work in conjunction with the proactive development of pocket parks, open spaces, and the creation of public spaces within the districts. PD zoning can support commercial corridor redevelopment plans and urban design guidelines or standards that require high quality development that is consistent with the *Vision*.

The PD specifically discourages those uses that: promote a strip center development pattern, promote idle land and over parking, and detract from the image enhancement intentions of this district. Planned Developments are intended to encourage orderly use, development and redevelopment of property, while allowing more flexibility and creativity in design to achieve high quality, integrated site planning not otherwise possible under the constraints of normal zoning requirements without detriment to adjacent/neighborhood properties.

1156.02 LOCATION OF PLANNED DEVELOPMENTS.

(a) A Planned Development may be permitted in a C1 Office, C2 Retail, C3 General Business District, C4 Public School District, or the MH Multiple-Family, High Density Residential District, on approval by the Commission and City Council in accordance with this Chapter **1156**.

(b) For a commercial PD, at least fifty-one percent (51%) of the property or properties must be located in the C1 Office, C2 Retail, C3 General Business, C4 Public School District, or the MH Multiple-Family, High Density Residential District.

(c) The remaining forty-nine percent (49%) or less of the property may be located in an existing R1L, R1M, R1H, R2 and ML residential zoning district so long as such property abuts or is immediately adjacent to property as described in subsection (b) above and provided that the PD contains adequate buffers, setbacks and transition as noted elsewhere in this Chapter.

(d) All properties identified as being part of the PD shall be designated a PD on the *Zoning Map*. Grouping of uses permitted in other districts to create developments of compatible and mutually supportive activities is encouraged provided there are adequate buffers to adjacent properties of other uses and designs to promote compatibility and transitions to adjacent properties.

(e) It is not intended that the Commission automatically approve PD proposals that seek increases in density, changes in allowed uses, or alterations in district standards; rather, approvals shall only be received by those proposals that provide design characteristics that substantially achieve the purpose of this Chapter.

(f) A PD should utilize the following characteristics to the greatest possible extent which shall be considered in the approval process:

(1) Designs that reflect the *Vision* and that offer types or densities of development that are not available under the other Sections of this *Code*.

(2) Designs that utilize a creative approach to achieve better urban design, efficiencies in use of land and infrastructure, and the provision of aesthetic amenities.

(3) Designs that provide appropriate buffers and transitions between areas with different land uses and development densities.

(4) Designs that maintain or enhance the appearance of neighborhoods by complementing neighborhood architectural character.

(5) Designs that are intended to encourage flexibility, innovation, and creativity in site and development design by allowing the mixing of permitted uses and/or modification of variation from otherwise applicable zone district and development standards.

(6) Designs, which encourage a mix of retail, service, office, housing, live-work units, and public activities to coexist in a manner that reflects human scale and emphasizes pedestrian orientation, taking advantage of the vitality that mixed uses can bring to the community.

(7) Designs that conserve areas of natural beauty and green spaces to the greatest degree possible consistent with accommodating new development.

(8) Designs that incorporate "green architecture" pursuant to Resolution 7746-03, *City of Lakewood Green Building Policy*.

1156.03 STANDARDS FOR REVIEW OF A PRELIMINARY PD PLAN.

An application for approval of a Preliminary PD Plan, together with submitted plans and reports, shall be reviewed for its conformance with the following standards:

(a) The proposed PD shall contain uses that are expressly permitted either by right or as conditional or accessory uses in a C1 Office, C2 Retail, C3 General Business, C4 Public School District, or the MH Multiple-Family, High Density Residential District, in which the PD is located or as modified according to (b)

below, but such uses may be mixed within the planned development or within the same structure located in the PD;

(b) The proposed PD shall comply with the subdivision requirements as set forth in Chapter 1155 of this *Code*, except to the extent modifications, variances, or waivers have been expressly allowed pursuant to paragraph (e) below;

(c) Adverse impacts on adjacent properties, including but not limited to increased traffic or noise, as described in Chapter 515 of the Ordinances, and visual impacts, shall be mitigated to the maximum extent feasible;

(d) The PD shall be integrated with adjacent development through street connections, sidewalks, trails, and similar features;

(e) All district, development, and subdivision standards set forth in Chapters 1127 and 1129 (such as lot size, floor area ratio, structure height, etc.), and 1155, except those specified in subsection (f) below, may be modified or varied upon a finding that the proposed PD incorporates creative site design which represents an improvement in quality and service of the purposes set forth in Section 1156.01 over what could have been accomplished through strict application of the otherwise applicable district or development standards, including but not limited to improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or choice of living and housing environments;

(f) The proposed PD shall comply with the following requirements, which shall not be modified or varied except as expressly set forth below or as permitted by the Commission.

(1) Minimum area requirement. All Planned Developments shall have a minimum size of 10,000 square feet.

(2) Setbacks from adjoining residential uses. A Planned Development shall comply with any applicable zone district standards that require minimum setbacks from adjoining residential uses or properties as set forth in Chapter 1121 and 1123.

(3) Environmental protection standards. All Planned Developments shall comply with Ohio Environmental Protection Agency regulations and local ordinances.

(4) Architectural and design standards. All Planned Developments shall comply with all architectural and design standards, including those set forth in Section 1156.05, Design Principles, of this *Code* and Chapter 1325 of the Building Code.

1156.04 PLANNED DEVELOPMENTS.

(a) Consolidation with Subdivision Approval. The applicant shall consolidate an application for Preliminary PD Plan approval with an application for subdivision plat approval, pursuant to Chapter 1155, and shall consolidate an application for Final PD Plan approval with an application for final subdivision plat approval. Such consolidated application shall be submitted in a form that satisfies both the PD requirements of this *Code* and the provisions, including submittal requirements, of Chapter 1155. The time frame and approval process for the consolidated PD/subdivision application shall follow the time frame and approval process set forth in this section. The plat included as part of an approved Final PD Plan shall be recorded as the final subdivision plat.

(b) Procedures for Approval of a Preliminary PD Plan. Planned Developments, similar to subdivisions, are first approved in preliminary form, and then approved in final form. The applicant may select Preliminary PD Plan Option One or Preliminary PD Plan Option Two.

(c) Preliminary PD Plan Option One:

(1) Pre-application conceptual review meeting. A pre-application conceptual review meeting shall be mandatory for all persons intending to submit an application for approval of a Preliminary PD Plan.

(2) The Commission's role shall be to review all applications for Preliminary PD Plans and make a recommendation to the Director to approve, approve with conditions, or deny the application based on compliance with Section 1156.03 of this *Code*. If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised preliminary PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.

(3) A plan previously receiving Preliminary Plan approval may proceed with Final PD Plan approval.

(4) Upon receipt of the approved Preliminary PD Plan from the Commission, the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.

(d) Preliminary PD Plan Option Two:

(1) Pre-application conceptual review meeting. A pre-application conceptual review meeting shall be mandatory for all persons intending to submit an application for approval of a Preliminary PD Plan.

(2) The Commission's role shall be to review all applications for Preliminary PD Plans and make a recommendation to the Director to approve, approve with conditions, or deny the application based on compliance with Section 1156.03 of this *Code*. If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised preliminary PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.

(3) Preliminary approval must be received to proceed.

(4) Upon completion of the initial review of the Preliminary PD Plan by the Commission, the applicant may request the Director to submit the Preliminary PD Plan to City Council for review and preliminary approval.

(5) Upon receipt of the approved Preliminary PD Plan from the Commission and City Council, the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.

(e) Procedures for Approval of a Final PD Plan.

(1) A plan previously receiving preliminary approval may be submitted for Final Approval.

(2) A Final PD Plan may cover the entire area covered by the Preliminary PD Plan, or it may include only a phase or phases of the Preliminary PD Plan. Only such phases as receive Final Approval may be advanced for purposes of obtaining building permits and being constructed.

(3) A preliminary plan complying with the requirements set forth in Section 1155.03, Subdivision Regulations, General Requirements, and a plat complying with the requirements set forth in Section 1155.03, Subdivision Regulations, General Requirements, shall be prepared for each lot consolidation and submitted with an application for approval to the Director, except, at the discretion of the Director, the preliminary plan may be waived, prior to the deadline established by the Commission by rule. The purposes of the preliminary plan are to allow the Commission to determine if it qualifies as a potential PD and its compliance with other *City* codes.

(4) Concurrent with submission of an application for approval of a Final PD Plan, the Director shall submit to City Council a final Development Agreement, if applicable, for review and execution.

(5) The Commission's role shall be to review any application for Final PD Plan approval and make a recommendation to the Director to approve, approve

with conditions, or deny the application based on its compliance with Section **1156.03** of this *Code*.

(6) If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised Final PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.

(7) Upon receipt of the approved Final PD Plan from the Commission the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.

(8) Upon receipt of:

A. The approved Final PD Plan from the Architectural Board of Review,

B. An approved lot split and/or lot consolidation plat signed by the Chairman and Secretary of the Commission, and

C. An approved and executed Development Agreement from City Council if applicable, the Final PD Plan and plat shall be forwarded to Council along with the Commission's recommendation for approval.

D. Council shall approve or disapprove the Final PD Plan within forty-five (45) days from the date received by Council.

E. When the Final PD Plan is approved:

1. The plat shall be recorded;

2. Applicable building permits may be applied for and issued; and

3. Construction shall begin within sixty (60) days of issuance of the permits referred to in subparagraph (e)(8)E.2. herein.

(f) Street Acceptance. Where streets are to be dedicated to public use, upon approval of all improvements by the Engineer, the developer shall file a certificate and opinion of title, a guarantee of title or a title insurance policy in the amount of the market value of the property but not less than \$1,000.00 with the Law Director showing the title to the street(s) in the PD to be good in the *City* for street purposes and to be free and clear of all liens and encumbrances whatsoever. The plat shall then be presented to Council for acceptance and confirmation of the dedication of such street(s).

(g) Recording. The plat shall be filed and recorded in the offices of the County Auditor and County Recorder by an authorized representative of the *City* within thirty (30) days after final approval.

(h) Fees. A review and recording fee, established pursuant to Section **1173.06** shall be included with the application.

(i) Notice Procedures. Where a PD is requested, notice of the public hearing held pursuant to Section **1171.03**(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter **107** (Publication of Legal Notices) of the Ordinances.

(1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:

A. All properties abutting the PD;

B. All properties abutting such properties described in subparagraph (i)(1)A. herein, including properties located across the right-of-way from or behind said abutting properties;

C. Any other property the Director deems affected by the proposed PD.

(2) Where a property described in paragraph (i)(1) above contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.

(j) Standards for Review. All applications for PD's shall demonstrate compliance with the requirements and review standards set forth in Section **1156.05** of this *Code* and Chapter **1325** of the Building Code.

(k) Effect of Approvals.

(1) Effect of approval of a Preliminary PD Plan.

A. An approved Preliminary PD Plan shall be valid for a period of twelve (12) months from the date of the Commission's action.

B. Application for approval of a Final PD Plan for all or any phase of the Preliminary PD Plan may be made at any time within the twelve (12) month period following the Commission's approval of the Preliminary PD Plan. An approved application for a Final PD Plan for any phase or portion of the Preliminary PD Plan shall extend the life of the Preliminary PD Plan for an additional twelve (12) month period from the date the Final PD Plan is approved. If the original or any successive twelve (12) month period expires before a completed application for a Final PD Plan approval is submitted, unless a different time frame is specified in the development agreement, the Preliminary PD Plan approval shall automatically lapse and be null and void and all of the properties included in the preliminary plan for which Final PD Plan approval has not been given shall be subject to the zoning and subdivision regulations otherwise applicable to them.

C. During the period an approved Preliminary PD Plan is effective, no subsequent change or amendment to this *Code* or any other governing ordinance or plan shall be applied to affect adversely the right of the applicant to proceed with any aspect of the approved development in accordance with the terms of such Preliminary PD Plan approval, except that the applicant shall comply with those local laws and regulations adopted subsequent to the approval of such Preliminary PD Plan if the Commission determines, on the basis of written findings, that compliance is reasonably necessary to protect the public health, safety, or welfare.

(2) Effect of approval of a Final PD Plan.

A. An approved Final PD Plan shall be valid for a period of two (2) years from the date City Council approves the rezoning.

B. During the period an approved Final PD Plan is effective, no subsequent change or amendment to this *Code* or any other governing ordinance or plan shall be applied to affect adversely the right of the applicant to proceed with any aspect of the approved development in accordance with the terms of such Final PD Plan approval, except that the applicant shall comply with those local laws and regulations adopted subsequent to the approval of such Final PD Plan if the Commission determines, on the basis of written findings, that compliance is reasonably necessary to protect the public health, safety, or welfare.

C. Within the two (2) year period, the developer/owner shall:

1. Submit the plat portion of the Final PD Plan as the final subdivision plat for recording by the City surveyor, Chapter **1155** notwithstanding; and

2. Undertake substantial construction of at least the first approved phase of the PD development.

(3) If these actions are not completed within the two (2) year time period, such Final PD Plan shall automatically lapse and become null and void.

(l) Applications for Preliminary and Final PD Plans shall be submitted to the Commissioner upon such forms as approved by the *City*.

(m) Modifications of Final PD Plan.

(1) A minor modification shall be defined, for purposes of this Chapter, as any alteration other than a major modification (as defined below) to an already approved Final PD Plan.

A. A minor modification must be reviewed and approved by the Commission and Architectural Board of Review.

(2) A major modification shall be defined, for purposes of this Chapter, as the addition to an already approved Final PD Plan of any property or properties located in a C1 Office, C2 Retail, C3 General Business District or the MH Multiple-Family, High Density Residential District, or the addition to an already approved Final PD Plan of any property or properties located in the R1L, R1M, R1H, R2, ML or L residential zoning district that abut a PD or, the addition to an already approved Final PD Plan that changes the mix of uses.

A. The review of a major modification by the Commission, Architectural Board of Review and City Council shall be processed in accordance with the procedure for approval of a Preliminary and Final PD Plan as described in Section 1156.04(c) or Section 1156.04(d) and Section 1156.04(e).

1156.05 DESIGN PRINCIPLES.

The following Design Principles provide certain guidelines and requirements, as noted, in the design preparation of a Preliminary PD Plan.

(a) Building and Site Design

(1) Wherever feasible, buildings shall be designed to provide massing configurations with a variety of different wall planes. Plain, monolithic structures with long walls and roof plane surfaces are discouraged.

(2) Each building facade shall incorporate design elements for each twenty (20) horizontal feet, such as changes in color or texture; projections, recesses, and reveals; arcades or pergolas providing pedestrian interest; or equivalent elements that subdivide the wall into human scale proportions. Ground level facades facing streets or pedestrian ways shall incorporate large amounts (at least sixty (60) percent of the facade) of windows that permit views into the interior of the building, or display windows.

(3) Building facades shall have highly visible customer entrances that feature canopies, overhangs, arcades, distinctive roof forms, arches, display windows, or landscaped features. Primary entrances should face streets on which they are located.

(4) Buildings shall have well defined rooflines with attention to architectural detail. Consideration should be given to the prevailing pattern of roofs in the area surrounding and within the PD.

(5) Sloping roofs, where used, shall have one (1) or more of the following architectural features: gables, hips, horizontal or vertical breaks, or other similar techniques that are to be integrated into the building architecture.

(b) Building Materials. Building materials shall be limited to brick, masonry, stucco, wood, fiber, cement siding, wood shingle, wood siding, cultured stone, or other similar materials. Prohibited materials include aluminum or vinyl siding, dryvit-type products on the lowest eight (8) feet of any structure, split faced block, and other similar materials.

(c) Vehicular Circulation and Access.

(1) Circulation systems shall be designed to efficiently facilitate traffic flow, yet designed to discourage speeds and volumes that impede pedestrian activity and safety.

(2) Street designs are encouraged to incorporate traffic calming devices and techniques.

(3) Common or shared access points are encouraged.

(4) To the maximum extent feasible, common or shared service and delivery access shall be provided between adjacent parcels or buildings, and provided to the rear of buildings.

(5) Safe and adequate site distances shall be provided at all intersections.

(6) Transit stops should be incorporated into site plans, where feasible.

(7) The developer as part of the site plan review process shall provide traffic impact studies.

(d) Pedestrian Access and Circulation.

(1) A coordinated pedestrian system shall be provided throughout the PD, including connections between uses on the site, and between the site and adjacent properties and rights-of-way. Pedestrian connections shall be provided to properties across streets wherever feasible.

(2) The site shall be connected to adjacent properties and pedestrian facilities to the maximum extent feasible.

(3) Continuous sidewalks or other pedestrian facilities shall be provided between the primary entrances to buildings, all parking areas that serve the buildings, pedestrian facilities on adjacent properties that extend to the boundaries shared with the PD, any public sidewalk along perimeter streets, or other community amenities or gathering spaces.

(4) Decorative sidewalks, such as brick pavers, are encouraged at key intersections or streets.

(5) Street furniture or other amenities are encouraged, such as plazas, benches, and decorative pedestrian light fixtures.

(6) Open and public areas should be provided as a mixture of green space landscaping and hardscape pedestrian areas with a goal of twenty (20) percent of the site area.

(e) Parking.

(1) Adequate parking shall be provided, but excessive parking is discouraged. The standards contained in Chapter **1143** shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations as determined by the Commission, and a finding by the Commission that the modified parking standards would comply with the provisions of the *Code* and the intent of the PD.

(2) Parking shall be distributed between the front, side, and rear of buildings to the maximum extent feasible.

(3) The visual impact of parking shall be minimized through the use of interior landscaped islands and through dividing parking spaces into groupings.

(4) The edges of parking lots shall be screened through landscaping or other methods such as decorative fences.

(5) A minimum of one (1) off-street parking space shall be required behind each residential unit or garage. No garage openings shall be permitted onto public streets.

(f) Landscaping and Screening.

(1) It shall be the duty of the Commission to determine whether a reasonable percentage of the area within a PD shall be maintained in a combination of landscaped and urban open space. The project must adhere to the spirit of the *City's* landscape values. The standards contained in Chapter **1141** shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Commission that such considerations would comply with the provisions of the *Code* and the intent of the PD.

(2) Pedestrian access from adjacent residential streets is encouraged. The owners of residential property directly abutting rear yards, parking and loading areas of a PD shall be contacted and offered masonry screening and/or appropriately designed alternatives. PD applicants shall document meetings with abutting residential owners and the results of such meetings. The intent of this provision is for the applicant to involve nearby residents in the PD project. City staff shall assist in this process.

(3) Where required, screening fences and walls shall be erected. The standards of Chapter **1141** shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Commission that such considerations would comply with the provisions of the *Code* and the intent of the PD.

(4) If used, the owner of the property on which the fence is required to be erected shall permanently and adequately maintain screening fences or walls. The following types of walls or fences shall qualify, Chapter 1141 notwithstanding.

(5) Masonry wall or fence. Masonry fences or walls shall be constructed with the finish side out and of any of the following materials:

A. Native stone

B. Brick

C. Precast concrete panels with decorative finish or decorative concrete masonry units

D. In no case shall more than twenty-five percent (25%) of the area of the fence be erected with common smooth-face masonry units.

(6) Ribbed metal panel fence. Suitably finished to blend with the primary structure and supported by structurally sound metal frame.

(7) Vegetative screening. Using plants and fence materials, vegetative screens may be proposed.

(8) Screening of roof-mounted equipment. All roof-mounted equipment that rises above the roofline of any building or structure

(g) Streetscape Improvements.

(1) A Streetscape Plan shall be submitted for the entire site. The Streetscape Plan shall address the relationship between vehicular and pedestrian traffic, pedestrian facilities, street and sidewalk lighting, landscaping, street furniture, trash receptacles, and transit stops.

(2) The design of streets, pedestrian ways, landscaping, lighting, and street furniture shall be coordinated and integrated throughout the site.

(3) Vehicular streets and driveways shall be designed to be compatible with pedestrian ways to encourage a pedestrian friendly environment. The width of streets shall be sensitive to pedestrian scale, and shall be minimized to avoid overwhelming that pedestrian scale while allowing for efficient vehicular traffic flow.

(4) Site furnishings such as benches, seating, trash receptacles, bike racks, lighting fixtures, and tree grates shall be addressed in the Streetscape Plan.

(h) Service Area and Mechanical Screening.

(1) The location of service areas and mechanical equipment shall be considered as part of the overall site design.

(2) Service areas and mechanical equipment shall be screened from public view.

(i) Signage.

(1) A master sign plan shall be prepared illustrating the location, type, size, and materials of all signage, pursuant to Chapter 1329 of the Building Code.

(2) It shall be the duty of the Board of Building Standards/Architectural Board of Review to review the sign proposal. The standards contained in Chapter 1329 of the Building Code shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Board of Building Standards/Architectural Board of Review that such considerations would comply with the provisions of the Building Code and the intent of the PD. Generally, the standard will be landscaped monument signs and multi-tenant signs.

(j) Lighting.

(1) A lighting plan shall be prepared, including a photometric illustration.

(2) It shall be the duty of the Board of Building Standards/Architectural Board of Review to review the lighting proposal. The standards contained in Chapter 1306 of the Property Maintenance Code shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Board of Building

Standards/Architectural Board of Review that such considerations would comply with the provisions of the Building Code and the intent of the PD.

(3) Lighting shall be designed to avoid spillover onto adjacent properties through the use of cutoff shields or other similar features.

(k) Fences. It shall be the duty of the Architectural Board of Review to review the fence requirements pursuant to Chapter **1153** to determine whether said plan is consistent with the provisions of the *Code* and the intent of the PD.

(l) Urban Open Space.

(1) No plan for a PD shall be approved unless such plan provides for urban open space.

(2) Common open space (whether dedicated to public use or owned and maintained in common by the owner or owners) shall be reserved for the leisure and recreational use of all the project's occupants and readily accessible thereto.

(3) The guideline for PD open space is twenty percent (20%) of the project area.

(4) Landscaping requirements can be incorporated into the open space requirement pursuant to subsection (f).

(5) The Commission in making this determination may consider the availability and nature of adjacent or nearby public open space and parkland.

(6) Common open space is land area of which at least fifty percent (50%) is not covered by buildings, structures or the building's parking spaces.

(7) Common open space shall be guaranteed by a restrictive covenant in the deed describing the open space and its uses, and requirements regarding maintenance, and improvement that run with the land for the benefit of occupants or the public.

(m) Amenities. All PD's with residential uses may provide amenities within the site which may include: courtyards, a swimming pool, spa, clubhouse, tot lot with play equipment, picnic shelter/barbecue area, court game facilities such as tennis, basketball, or racquetball, or child day care facilities. The type of amenities shall be approved by the Commission and provided according to the following schedule:

Number of Dwelling Units	Minimum Number of Amenities
0-11	0
12-50	1
51-100	2
101-200	3
201-300	4

1156.06 DEVIATIONS FROM OTHER REGULATIONS.

(a) The Commission may approve deviations from other applicable regulations of this *Code* controlling development within a PD, provided that the Commission shall find that such deviation shall be solely for the purpose of promoting an integrated site plan and would be consistent with the *Vision*.

(b) Any deviation from the standard development requirements included in the *Code* shall be justified by the benefits and design of the proposed PD.

(c) Additional standards specific to a PD.

(1) Unified ownership. The entire tract or parcel of land to be occupied by the proposed development shall be held in single ownership, or if there are two (2) or more owners, the application for such proposed development shall be filed

jointly by all such owners. This requirement shall ensure that the property is developed as a unified whole.

(2) Unified ownership or purchase agreement must be accomplished prior to a Development Agreement, if applicable, being submitted to the Director.

(3) Site design. The location, configuration, construction, manner and time of operation of off-street parking and loading areas, service areas, circulation systems, entrances, exits, open space, amenities, lighting, or other potentially detrimental influences shall be designed to avoid adverse effects on:

A. Residential uses within or adjoining the development;

B. Traffic congestion; and vehicular or pedestrian traffic.

(4) Utilities. The proposed development shall provide, if possible, for underground installation of utilities (including electricity and telephone) within both public ways and private extensions thereof. Provisions also shall be made for acceptable design and construction of storm water facilities including grading, gutter, piping, and treatment of turf and maintenance of facilities. Stormwater facilities shall be designed and constructed in compliance with Ohio Environmental Protection Agency regulations and local ordinances.

1156.07 PERFORMANCE AND MAINTENANCE BONDS.

(a) For all PDs, the City shall require a performance bond equal to the total cost of the improvements to be completed. Such bond shall set forth the *City* as the beneficiary and shall be issued by a reputable and solvent bonding company, licensed to do business in Ohio and shall be deposited with and retained by the *City* until all improvements are constructed to the satisfaction of the Engineer (for public improvements) and the Building Commissioner (for private improvements). The *City* may waive such performance bond requirement if there is a Development Agreement with the *City*, which governs such security provisions.

(b) After the public improvements are completed and accepted by the Engineer, the Engineer may require the developer to provide the *City* with a two (2) year maintenance bond of at least ten percent (10%) of the approved estimated cost of construction. The developer shall complete the construction or repairs of all improvements within two (2) years from the date of permission to proceed. Otherwise, the *City* shall have the right to use the performance bond money to complete the improvements. Council may extend the aforesaid two (2) year period for good cause.

is hereby repealed.

Section 2. That new Chapter 1156, Planned Development is hereby enacted to read as follows:

1156.01 PURPOSE.

Planned Development (PD) zoning is intended to encourage orderly development and redevelopment of property, while allowing more flexibility and creativity in design to achieve high quality, integrated site planning not otherwise possible under the constraints of normal zoning requirements without detriment to neighboring properties. A Planned Development (PD) is meant to encourage more compact mixed use development, pedestrian friendly site design, and an urban street character, in order to increase pedestrian traffic, reduce vehicular traffic, promote energy efficient design, and accommodate a range of compatible land uses through appropriate site design. PDs are intended to permit a more flexible approach to land use control and to promote development that is innovative, integrated with surrounding uses, and shows sensitivity to cultural, environmental, and economic considerations. PD's are

intended to permit a more flexible approach to land use control and to promote a variety of housing types developed among neighborhood-serving commercial uses and employment opportunities.

Planned Development Zoning is intended to encourage development which is consistent with the *Community Vision* including more compact development, pedestrian-friendly site design, urban street character, energy-efficient design, industry best practices, and accommodation of a range of compatible land uses through appropriate site design. PDs are intended to permit a more flexible approach to land use control and to promote a variety of housing types.

~~A PD encourages the development of compact, pedestrian-scaled, mixed-use neighborhoods and commercial centers while serving to provide greater efficiencies in use of infrastructure. It is intended to help advance revitalization initiatives along commercial corridors and recognize the market demand for new residential and commercial development within compact, pedestrian friendly districts. PD zoning is intended to work in conjunction with the proactive development of pocket parks, open spaces, and the creation of public spaces within the districts. PD zoning can support commercial corridor redevelopment plans and urban design guidelines or standards that require high quality development that is consistent with the *Vision*.~~

A PD encourages the development of compact, pedestrian-scaled, neighborhoods while providing greater efficiencies in use of infrastructure. It is intended to help advance revitalization initiatives and recognize the market demand for new residential and commercial development within compact, pedestrian friendly districts. PD zoning is intended to work in conjunction with the proactive development of pocket parks, open spaces, and the creation of public spaces within the districts. PD Zoning specifically discourages those uses that: promote a strip center development pattern, promote idle land and over parking, and detract from the image enhancement intentions of this district.

~~The PD specifically discourages those uses that: promote a strip center development pattern, promote idle land and over parking, and detract from the image enhancement intentions of this district. Planned Developments are intended to encourage orderly use, development and redevelopment of property, while allowing more flexibility and creativity in design to achieve high quality, integrated site planning not otherwise possible under the constraints of normal zoning requirements without detriment to adjacent/neighborhood properties.~~

1156.02 LOCATION OF PLANNED DEVELOPMENTS.

~~—(a) A Planned Development may be permitted in a C1 Office, C2 Retail, C3 General Business District, C4 Public School District, or the MH Multiple-Family, High Density Residential District, on approval by the Commission and City Council in accordance with this Chapter **1156**.~~

~~—(b) For a commercial PD, at least fifty-one percent (51%) of the property or properties must be located in the C1 Office, C2 Retail, C3 General Business, C4 Public School District, or the MH Multiple-Family, High Density Residential District.~~

~~—(c) The remaining forty-nine percent (49%) or less of the property may be located in an existing R1L, R1M, R1H, R2 and ML residential zoning district so long as such property abuts or is immediately adjacent to property as described in subsection (b) above and provided that the PD contains adequate buffers, setbacks and transition as noted elsewhere in this Chapter.~~

—(a) Any parcel or collection of parcels greater than 10,000 ft² in area may be rezoned to PD. Past use of the site and the zoning of abutting properties will be considered as part of the approval process.

(b) Approval of a Planned Development will result in a zoning map amendment. It shall result in the creation of a new site-specific zoning district with specific requirements and standards that are unique to that planned development.

(c) Grouping of uses permitted in other districts to create developments of compatible and mutually supportive activities is encouraged provided there are adequate buffers to adjacent properties of other uses and designs to promote compatibility and transitions to adjacent properties.

~~—(d) All properties identified as being part of the PD shall be designated a PD on the *Zoning Map*. Grouping of uses permitted in other districts to create developments of compatible and mutually supportive activities is encouraged provided there are adequate buffers to adjacent properties of other uses and designs to promote compatibility and transitions to adjacent properties.~~

(d) It is not intended that the Commission automatically approve PD proposals that seek increases in density, changes in allowed uses, or alterations in district standards; rather, approvals shall only be received by those proposals that provide design characteristics that substantially achieve the purpose of this Chapter and cannot be substantially achieved in any base zoning district.

~~—(e) It is not intended that the Commission automatically approve PD proposals that seek increases in density, changes in allowed uses, or alterations in district standards; rather, approvals shall only be received by those proposals that provide design characteristics that substantially achieve the purpose of this Chapter.~~

(ef) A PD should utilize the following characteristics to the greatest possible extent which shall be considered in the approval process:

(1) Designs that reflect the *Vision* and that offer types or densities of development that are not available under the other Sections of this *Code*.

(2) Designs that utilize a creative approach to achieve better urban design, efficiencies in use of land and infrastructure, and the provision of aesthetic amenities.

(3) Designs that provide appropriate buffers and transitions between areas with different land uses and development densities.

(4) Designs that maintain or enhance the appearance of neighborhoods by complementing neighborhood architectural character.

(5) Designs that are intended to encourage flexibility, innovation, and creativity in site and development design by allowing the mixing of permitted uses and/or modification of variation from otherwise applicable zone district and development standards.

~~—(6) Designs, which encourage a mix of retail, service, office, housing, live-work units, and public activities to coexist in a manner that reflects human scale and emphasizes pedestrian orientation, taking advantage of the vitality that mixed uses can bring to the community.~~

(67) Designs that conserve areas of natural beauty and green spaces to the greatest degree possible consistent with accommodating new development.

(78) Designs that incorporate “green architecture” pursuant to Resolution 7746-03, *City of Lakewood Green Building Policy*.

1156.03 STANDARDS FOR REVIEW OF A PRELIMINARY PD PLAN.

An application for approval of a Preliminary PD Plan, together with submitted plans and reports, shall be reviewed for its conformance with the following standards:

(a) The proposed PD should contain uses that are sensitive to the abutting land uses and to the zoning designation which the PD is replacing. Mixed use within the planned development or within the same structure located in the PD is encouraged where appropriate;

~~—(a) The proposed PD shall contain uses that are expressly permitted either by right or as conditional or accessory uses in a C1 Office, C2 Retail, C3 General Business, C4 Public School District, or the MH Multiple-Family, High Density Residential District, in which the PD is located or as modified according to (b) below, but such uses may be mixed within the planned development or within the same structure located in the PD;~~

(b) The proposed PD shall comply with the subdivision requirements as set forth in Chapter **1155** of this *Code*, except to the extent modifications, variances, or waivers have been expressly allowed pursuant to paragraph (e) below;

(c) Adverse impacts on adjacent properties, including but not limited to increased traffic or noise, as described in Chapter **515** of the Ordinances, and visual impacts, shall be mitigated to the maximum extent feasible;

(d) The PD shall be integrated with adjacent development through street connections, sidewalks, trails, and similar features;

(e) All district, development, and subdivision standards set forth in Chapters **1127** and **1129** (such as lot size, floor area ratio, structure height, etc.), and **1155**, except those specified in subsection (f) below, may be modified or varied upon a finding that the proposed PD incorporates creative site design which represents an improvement in quality and service of the purposes set forth in Section **1156.01** over what could have been accomplished through strict application of the otherwise applicable district or development standards, including but not limited to improvements in open space provision and access; environmental protection; tree/vegetation preservation; efficient provision of streets, roads, and other utilities and services; or choice of living and housing environments;

(f) The proposed PD shall comply with the following requirements, which shall not be modified or varied except as expressly set forth below or as permitted by the Commission.

(1) Minimum area requirement. All Planned Developments shall have a minimum size of 10,000 square feet.

(2) Setbacks from adjoining residential uses. A Planned Development shall comply with any applicable zone district standards that require minimum setbacks from adjoining residential uses or properties as set forth in Chapter **1121** and **1123**.

(3) Environmental protection standards. All Planned Developments shall comply with Ohio Environmental Protection Agency regulations and local ordinances.

(4) Architectural and design standards. All Planned Developments shall comply with all architectural and design standards, including those set forth in Section **1156.05**, Design Principles, of this *Code* and Chapter **1325** of the Building Code.

1156.04 PLANNED DEVELOPMENTS.

(a) Consolidation with Subdivision Approval. The applicant shall consolidate an application for Preliminary PD Plan approval with an application for subdivision plat approval, pursuant to Chapter **1155**, and shall consolidate an application for Final PD Plan approval with an application for final subdivision plat approval. Such consolidated application shall be submitted in a form that satisfies both the PD requirements of this *Code* and the provisions, including submittal requirements, of Chapter **1155**. The time frame and approval process for the consolidated PD/subdivision application shall follow the time frame and

approval process set forth in this section. The plat included as part of an approved Final PD Plan shall be recorded as the final subdivision plat.

(b) Procedures for Approval of a Preliminary PD Plan. Planned Developments, similar to subdivisions, are first approved in preliminary form, and then approved in final form. The applicant may select Preliminary PD Plan Option One or Preliminary PD Plan Option Two.

(c) Preliminary PD Plan Option One:

(1) Pre-application conceptual review meeting. A pre-application conceptual review meeting shall be mandatory for all persons intending to submit an application for approval of a Preliminary PD Plan.

(2) The Commission's role shall be to review all applications for Preliminary PD Plans and make a recommendation to the Director to approve, approve with conditions, or deny the application based on compliance with Section **1156.03** of this *Code*. If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised preliminary PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.

(3) A plan previously receiving Preliminary Plan approval may proceed with Final PD Plan approval.

(4) Upon receipt of the approved Preliminary PD Plan from the Commission, the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.

(d) Preliminary PD Plan Option Two:

(1) Pre-application conceptual review meeting. A pre-application conceptual review meeting shall be mandatory for all persons intending to submit an application for approval of a Preliminary PD Plan.

(2) The Commission's role shall be to review all applications for Preliminary PD Plans and make a recommendation to the Director to approve, approve with conditions, or deny the application based on compliance with Section **1156.03** of this *Code*. If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised preliminary PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.

(3) Preliminary approval must be received to proceed.

(4) Upon completion of the initial review of the Preliminary PD Plan by the Commission, the applicant may request the Director to submit the Preliminary PD Plan to City Council for review and preliminary approval.

(5) Upon receipt of the approved Preliminary PD Plan from the Commission and City Council, the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.

(e) Procedures for Approval of a Final PD Plan.

(1) A plan previously receiving preliminary approval may be submitted for Final Approval.

(2) A Final PD Plan may cover the entire area covered by the Preliminary PD Plan, or it may include only a phase or phases of the Preliminary PD Plan. Only such phases as receive Final Approval may be advanced for purposes of obtaining building permits and being constructed.

(3) A preliminary plan complying with the requirements set forth in Section **1155.03**, Subdivision Regulations, General Requirements, and a plat complying with the requirements set forth in Section **1155.03**, Subdivision Regulations, General Requirements, shall be prepared for each lot consolidation and submitted with an application for approval to the Director, except, at the discretion of the Director, the preliminary plan may be waived, prior to the deadline established by the Commission by rule. The purposes of the

preliminary plan are to allow the Commission to determine if it qualifies as a potential PD and its compliance with other *City* codes.

(4) Concurrent with submission of an application for approval of a Final PD Plan, the Director shall submit to City Council a final Development Agreement, if applicable, for review and execution.

(5) The Commission's role shall be to review any application for Final PD Plan approval and make a recommendation to the Director to approve, approve with conditions, or deny the application based on its compliance with Section 1156.03 of this *Code*.

(6) If the Commission recommends approval of an application with conditions, the applicant shall resubmit to the Commission a revised Final PD Plan that reflects the changes or modifications required or suggested by the Commission in its initial review.

(7) Upon receipt of the approved Final PD Plan from the Commission the Director shall forward the application to the Architectural Board of Review for review of the application based on compliance with the standards set forth in subsection (j) below.

(8) Upon receipt of:

A. The approved Final PD Plan from the Architectural Board of Review,

B. An approved lot split and/or lot consolidation plat signed by the Chairman and Secretary of the Commission, and

C. An approved and executed Development Agreement from City Council if applicable, the Final PD Plan and plat shall be forwarded to Council along with the Commission's recommendation for approval.

D. Council shall approve or disapprove the Final PD Plan within forty-five (45) days from the date received by Council.

E. When the Final PD Plan is approved:

1. The plat shall be recorded;

2. Applicable building permits may be applied for and issued; and

3. Construction shall begin within sixty (60) days of issuance of the permits referred to in subparagraph (e)(8)E.2. herein.

(f) Street Acceptance. Where streets are to be dedicated to public use, upon approval of all improvements by the Engineer, the developer shall file a certificate and opinion of title, a guarantee of title or a title insurance policy in the amount of the market value of the property but not less than \$1,000.00 with the Law Director showing the title to the street(s) in the PD to be good in the *City* for street purposes and to be free and clear of all liens and encumbrances whatsoever. The plat shall then be presented to Council for acceptance and confirmation of the dedication of such street(s).

(g) Recording. The plat shall be filed and recorded in the offices of the County Auditor and County Recorder by an authorized representative of the *City* within thirty (30) days after final approval.

(h) Fees. A review and recording fee, established pursuant to Section 1173.06 shall be included with the application.

(i) Notice Procedures. Where a PD is requested, notice of the public hearing held pursuant to Section 1171.03(i) shall be made in a newspaper of general circulation no less than seven (7) days before the hearing; said notice shall state the time and place of the hearing in accordance with Chapter 107 (Publication of Legal Notices) of the Ordinances.

(1) In addition, notice, indicating the time, place, and subject of the hearing, shall be sent by regular mail to the owners of:

A. All properties abutting the PD;

B. All properties abutting such properties described in subparagraph (i)(1)A. herein, including properties located across the right-of-way from or behind said abutting properties;

C. Any other property the Director deems affected by the proposed PD.

(2) Where a property described in paragraph (i)(1) above contains a condominium of more than ten (10) units, notice shall be sent to the president of the condominium association and the management company responsible for the building; the management company shall receive sufficient copies of the notice to post two (2) on every floor of the building at locations determined by the company.

(j) Standards for Review. All applications for PD's shall demonstrate compliance with the requirements and review standards set forth in Section **1156.05** of this *Code* and Chapter **1325** of the Building Code.

(k) Effect of Approvals.

(1) Effect of approval of a Preliminary PD Plan.

A. An approved Preliminary PD Plan shall be valid for a period of twelve (12) months from the date of the Commission's action.

B. Application for approval of a Final PD Plan for all or any phase of the Preliminary PD Plan may be made at any time within the twelve (12) month period following the Commission's approval of the Preliminary PD Plan. An approved application for a Final PD Plan for any phase or portion of the Preliminary PD Plan shall extend the life of the Preliminary PD Plan for an additional twelve (12) month period from the date the Final PD Plan is approved. If the original or any successive twelve (12) month period expires before a completed application for a Final PD Plan approval is submitted, unless a different time frame is specified in the development agreement, the Preliminary PD Plan approval shall automatically lapse and be null and void and all of the properties included in the preliminary plan for which Final PD Plan approval has not been given shall be subject to the zoning and subdivision regulations otherwise applicable to them.

C. During the period an approved Preliminary PD Plan is effective, no subsequent change or amendment to this *Code* or any other governing ordinance or plan shall be applied to affect adversely the right of the applicant to proceed with any aspect of the approved development in accordance with the terms of such Preliminary PD Plan approval, except that the applicant shall comply with those local laws and regulations adopted subsequent to the approval of such Preliminary PD Plan if the Commission determines, on the basis of written findings, that compliance is reasonably necessary to protect the public health, safety, or welfare.

(2) Effect of approval of a Final PD Plan.

A. An approved Final PD Plan shall be valid for a period of two (2) years from the date City Council approves the rezoning.

B. During the period an approved Final PD Plan is effective, no subsequent change or amendment to this *Code* or any other governing ordinance or plan shall be applied to affect adversely the right of the applicant to proceed with any aspect of the approved development in accordance with the terms of such Final PD Plan approval, except that the applicant shall comply with those local laws and regulations adopted subsequent to the approval of such Final PD Plan if the Commission determines, on the basis of written findings, that compliance is reasonably necessary to protect the public health, safety, or welfare.

C. Within the two (2) year period, the developer/owner shall:

1. Submit the plat portion of the Final PD Plan as the final subdivision plat for recording by the City surveyor, Chapter **1155** notwithstanding; and
2. Undertake substantial construction of at least the first approved phase of the PD development.

(3) If these actions are not completed within the two (2) year time period, such Final PD Plan shall automatically lapse and become null and void.

(l) Applications for Preliminary and Final PD Plans shall be submitted to the Commissioner upon such forms as approved by the *City*.

(m) Modifications of Final PD Plan.

(1) A minor modification shall be defined, for purposes of this Chapter, as any alteration other than a major modification (as defined below) to an already approved Final PD Plan.

A. A minor modification must be reviewed and approved by the Commission and Architectural Board of Review.

(2) A major modification shall be defined, for purposes of this Chapter, as the addition to an already approved Final PD Plan of any property or properties located in a C1 Office, C2 Retail, C3 General Business District or the MH Multiple-Family, High Density Residential District, or the addition to an already approved Final PD Plan of any property or properties located in the R1L, R1M, R1H, R2, ML or L residential zoning district that abut a PD or, the addition to an already approved Final PD Plan that changes the mix of uses.

A. The review of a major modification by the Commission, Architectural Board of Review and City Council shall be processed in accordance with the procedure for approval of a Preliminary and Final PD Plan as described in Section 1156.04(c) or Section 1156.04(d) and Section 1156.04(e).

1156.05 DESIGN PRINCIPLES.

The following Design Principles provide certain guidelines and requirements, as noted, in the design preparation of a Preliminary PD Plan.

(a) Building and Site Design

(1) Wherever feasible, buildings shall be designed to provide massing configurations with a variety of different wall planes. Plain, monolithic structures with long walls and roof plane surfaces are discouraged.

(2) Building facades should incorporate design elements such as changes in color or texture; projections, recesses, and reveals; arcades or pergolas providing pedestrian interest; or equivalent elements that subdivide the wall into human scale proportions. Commercial facades facing streets or pedestrian ways shall incorporate large amounts (at least sixty (60) percent of the facade) of windows that permit views into the interior of the building, or display windows.

~~(2) Each building facade shall incorporate design elements for each twenty (20) horizontal feet, such as changes in color or texture; projections, recesses, and reveals; arcades or pergolas providing pedestrian interest; or equivalent elements that subdivide the wall into human scale proportions. Ground level facades facing streets or pedestrian ways shall incorporate large amounts (at least sixty (60) percent of the facade) of windows that permit views into the interior of the building, or display windows.~~

(3) Commercial Building facades shall have highly visible customer entrances that feature canopies, overhangs, arcades, distinctive roof forms, arches, display windows, or landscaped features. Primary entrances should face streets on which they are located.

(4) Buildings shall have well defined rooflines with attention to architectural detail. Consideration should be given to the prevailing pattern of roofs in the area surrounding and within the PD.

(5) Sloping roofs, where used, shall have one (1) or more of the following architectural features: gables, hips, horizontal or vertical breaks, or other similar techniques that are to be integrated into the building architecture.

(b) Building Materials. Building materials shall be limited to brick, masonry, stucco, wood, fiber, cement siding, wood shingle, wood siding, cultured stone, or other similar materials. Prohibited materials include aluminum or vinyl siding, dryvit-type products on the lowest eight (8) feet of any structure, split faced block, and other similar materials.

(c) Vehicular Circulation and Access.

(1) Circulation systems shall be designed to efficiently facilitate traffic flow, yet designed to discourage speeds and volumes that impede pedestrian activity and safety.

(2) Street designs are encouraged to incorporate traffic calming devices and techniques.

(3) Common or shared access points are encouraged.

(4) To the maximum extent feasible, common or shared service and delivery access shall be provided between adjacent parcels or buildings, and provided to the rear of buildings.

(5) Safe and adequate site distances shall be provided at all intersections.

(6) Transit stops should be incorporated into site plans, where feasible.

(7) The developer as part of the site plan review process shall provide traffic impact studies.

(d) Pedestrian Access and Circulation.

(1) A coordinated pedestrian system shall be provided throughout the PD, including connections between uses on the site, and between the site and adjacent properties and rights-of-way. Pedestrian connections shall be provided to properties across streets wherever feasible.

(2) The site shall be connected to adjacent properties and pedestrian facilities to the maximum extent feasible.

(3) Continuous sidewalks or other pedestrian facilities shall be provided between the primary entrances to buildings, all parking areas that serve the buildings, pedestrian facilities on adjacent properties that extend to the boundaries shared with the PD, any public sidewalk along perimeter streets, or other community amenities or gathering spaces.

(4) Decorative sidewalks, such as brick pavers, are encouraged at key intersections or streets.

(5) Street furniture or other amenities are encouraged, such as plazas, benches, and decorative pedestrian light fixtures.

(6) Open and public areas should be provided as a mixture of green space landscaping and hardscape pedestrian areas with a goal of twenty (20) percent of the site area.

(e) Parking.

(1) Adequate parking shall be provided, but excessive parking is discouraged. The standards contained in Chapter **1143** shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations as determined by the Commission, and a finding by the Commission that the modified parking standards would comply with the provisions of the *Code* and the intent of the PD.

~~(2) Parking shall be distributed between the front, side, and rear of buildings to the maximum extent feasible.~~

(32) The visual impact of parking shall be minimized through the use of interior landscaped islands and through dividing parking spaces into groupings.

(43) The edges of parking lots shall be screened through landscaping or other methods such as decorative fences.

(54) A minimum of one (1) off-street parking space shall be required behind each residential unit or garage. No garage openings shall be permitted onto public streets.

(f) Landscaping and Screening.

(1) It shall be the duty of the Commission to determine whether a reasonable percentage of the area within a PD shall be maintained in a combination of landscaped and urban open space. The project must adhere to the spirit of the *City's* landscape values. The standards contained in Chapter **1141** shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the

Commission that such considerations would comply with the provisions of the *Code* and the intent of the PD.

(2) Pedestrian access from adjacent residential streets is encouraged. The owners of residential property directly abutting rear yards, parking and loading areas of a PD shall be contacted and offered masonry screening and/or appropriately designed alternatives. PD applicants shall document meetings with abutting residential owners and the results of such meetings. The intent of this provision is for the applicant to involve nearby residents in the PD project. City staff shall assist in this process.

(3) Where required, screening fences and walls shall be erected. The standards of Chapter 1141 shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Commission that such considerations would comply with the provisions of the *Code* and the intent of the PD.

(4) If used, the owner of the property on which the fence is required to be erected shall permanently and adequately maintain screening fences or walls. The following types of walls or fences shall qualify, Chapter 1141 notwithstanding.

(5) Masonry wall or fence. Masonry fences or walls shall be constructed with the finish side out and of any of the following materials:

A. Native stone

B. Brick

C. Precast concrete panels with decorative finish or decorative concrete masonry units

D. In no case shall more than twenty-five percent (25%) of the area of the fence be erected with common smooth-face masonry units.

(6) Ribbed metal panel fence. Suitably finished to blend with the primary structure and supported by structurally sound metal frame.

(7) Vegetative screening. Using plants and fence materials, vegetative screens may be proposed.

(8) Screening of roof-mounted equipment. All roof-mounted equipment that rises above the roofline of any building or structure

(g) Streetscape Improvements.

(1) A Streetscape Plan shall be submitted for the entire site. The Streetscape Plan shall address the relationship between vehicular and pedestrian traffic, pedestrian facilities, street and sidewalk lighting, landscaping, street furniture, trash receptacles, and transit stops.

(2) The design of streets, pedestrian ways, landscaping, lighting, and street furniture shall be coordinated and integrated throughout the site.

(3) Vehicular streets and driveways shall be designed to be compatible with pedestrian ways to encourage a pedestrian friendly environment. The width of streets shall be sensitive to pedestrian scale, and shall be minimized to avoid overwhelming that pedestrian scale while allowing for efficient vehicular traffic flow.

(4) Site furnishings such as benches, seating, trash receptacles, bike racks, lighting fixtures, and tree grates shall be addressed in the Streetscape Plan.

(h) Service Area and Mechanical Screening.

(1) The location of service areas and mechanical equipment shall be considered as part of the overall site design.

(2) Service areas and mechanical equipment shall be screened from public view.

(i) Signage.

(1) A master sign plan shall be prepared illustrating the location, type, size, and materials of all signage, pursuant to Chapter 1329 of the Building Code.

(2) It shall be the duty of the Board of Building Standards/Architectural Board of Review to review the sign proposal. The standards contained in

Chapter **1329** of the Building Code shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Board of Building Standards/Architectural Board of Review that such considerations would comply with the provisions of the Building Code and the intent of the PD. Generally, the standard will be landscaped monument signs and multi-tenant signs.

(j) Lighting.

(1) A lighting plan shall be prepared, including a photometric illustration.

(2) It shall be the duty of the Board of Building Standards/Architectural Board of Review to review the lighting proposal. The standards contained in Chapter **1306** of the Property Maintenance Code shall be used as a guide, but those standards may be modified without the need for a variance based upon other considerations determined by the Board of Building Standards/Architectural Board of Review that such considerations would comply with the provisions of the Building Code and the intent of the PD.

(3) Lighting shall be designed to avoid spillover onto adjacent properties through the use of cutoff shields or other similar features.

(k) Fences. It shall be the duty of the Architectural Board of Review to review the fence requirements pursuant to Chapter **1153** to determine whether said plan is consistent with the provisions of the *Code* and the intent of the PD.

(l) Urban Open Space.

~~(1) No plan for a PD shall be approved unless such plan provides for urban open space.~~

(12) Common open space (whether dedicated to public use or owned and maintained in common by the owner or owners) shall be reserved for the leisure and recreational use of all the project's occupants and readily accessible thereto.

(23) The guideline for PD open space is twenty percent (20%) of the project area.

(34) Landscaping requirements can be incorporated into the open space requirement pursuant to subsection (f).

(45) The Commission in making this determination may consider the availability and nature of adjacent or nearby public open space and parkland.

(56) Common open space is land area of which at least fifty percent (50%) is not covered by buildings, structures or the building's parking spaces.

(67) Common open space shall be guaranteed by a restrictive covenant in the deed describing the open space and its uses, and requirements regarding maintenance, and improvement that run with the land for the benefit of occupants or the public.

(m) Amenities. All PD's with residential uses ~~may should~~ provide on-site amenities within the site which contribute to the open space. These amenities may include but are not limited to: courtyards, a swimming pool, spa, clubhouse, tot lot with play equipment, picnic shelter/barbecue area, court game facilities such as tennis, basketball, or racquetball, or child day care facilities. ~~The type of amenities shall be approved by the Commission and provided according to the following schedule:~~

Number of Dwelling Units	Minimum Number of Amenities
0-11	0
12-50	1
51-100	2

101-200	3
201-300	4

1156.06 DEVIATIONS FROM OTHER REGULATIONS.

(a) The Commission may approve deviations from other applicable regulations of this *Code* controlling development within a PD, provided that the Commission shall find that such deviation shall be solely for the purpose of promoting an integrated site plan and would be consistent with the *Vision*.

(b) Any deviation from the standard development requirements included in the *Code* shall be justified by the benefits and design of the proposed PD.

(c) Additional standards specific to a PD.

(1) Unified ownership. The entire tract or parcel of land to be occupied by the proposed development shall be held in single ownership, or if there are two (2) or more owners, the application for such proposed development shall be filed jointly by all such owners. This requirement shall ensure that the property is developed as a unified whole.

(2) Unified ownership or purchase agreement must be accomplished prior to a Development Agreement, if applicable, being submitted to the Director.

(3) Site design. The location, configuration, construction, manner and time of operation of off-street parking and loading areas, service areas, circulation systems, entrances, exits, open space, amenities, lighting, or other potentially detrimental influences shall be designed to avoid adverse effects on:

A. Residential uses within or adjoining the development;

B. Traffic congestion; and vehicular or pedestrian traffic.

(4) Utilities. The proposed development shall provide, if possible, for underground installation of utilities (including electricity and telephone) within both public ways and private extensions thereof. Provisions also shall be made for acceptable design and construction of storm water facilities including grading, gutter, piping, and treatment of turf and maintenance of facilities. Stormwater facilities shall be designed and constructed in compliance with Ohio Environmental Protection Agency regulations and local ordinances.

1156.07 PERFORMANCE AND MAINTENANCE BONDS.

(a) For all PDs, the City shall require a performance bond equal to the total cost of the improvements to be completed. Such bond shall set forth the *City* as the beneficiary and shall be issued by a reputable and solvent bonding company, licensed to do business in Ohio and shall be deposited with and retained by the *City* until all improvements are constructed to the satisfaction of the Engineer (for public improvements) and the Building Commissioner (for private improvements). The *City* may waive such performance bond requirement if there is a Development Agreement with the *City*, which governs such security provisions.

(b) After the public improvements are completed and accepted by the Engineer, the Engineer may require the developer to provide the *City* with a two (2) year maintenance bond of at least ten percent (10%) of the approved estimated cost of construction. The developer shall complete the construction or repairs of all improvements within two (2) years from the date of permission to proceed. Otherwise, the *City* shall have the right to use the performance bond money to complete the improvements. Council may extend the aforesaid two (2) year period for good cause.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such

formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____
President

Clerk

Approved: _____
Mayor